



## **New DOL Rules Significantly Increase Employers' Overtime Obligations**

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On May 18, 2016, The Department of Labor (“DOL”) promulgated a new—but much-anticipated—regulation which drastically increases the minimum salary level necessary for employees to be classified as exempt from overtime payment under the Fair Labor Standards Act (“FLSA”).

Since 2004, federal law has required that salaried executive, administrative, and professional workers be paid at least \$455 per week in order to be deemed exempt from federal overtime requirements. The new regulation provides that after December 1, 2016, such employees must be paid at least \$913 per week—i.e., \$47,476 per year—in order to maintain their exempt classification. The new rule, then, more than doubles the annual salary level necessary for employees to qualify for overtime exemption.

The DOL estimates that this update will “automatically extend” overtime to approximately 4.2 million employees who have previously been deemed exempt. In light of the agency’s prediction that the new rule will have so profound an impact, employers should use the seven months remaining until the regulation takes effect to carefully analyze their classification of workers and ensure prompt and proper compliance with the law by December.

Wage and hour law is a nuanced and evolving field—one made only more complicated by the multiple facets of this new regulation. The final rule, in addition to increasing the salary threshold necessary for employees to qualify for exemption, provides that up to ten percent of that minimum salary figure may derive from non-discretionary bonuses and incentive payments. The rule also sets forth processes for automatic adjustment of the salary level in future years, in order to account for currency inflation. Given the complexity of wage payment issues, Rubin and Rudman strongly suggests that employers seek legal counsel to determine whether their existing policies will require revision under new and future iterations of the DOL regulation.

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