

PUBLICATION

New Wage Regulations Dramatically Increase the Number of Hourly Workers

Authors: Whitney M. Dowdy, Kenneth A. Weber

June 30, 2015

Today, the U.S. Department of Labor (DOL) proposed new regulations that will dramatically increase the number of employees who must be paid on an hourly basis. Before today, employees who earned \$455.00 per week (or \$23,660.00 per year) could qualify as exempt.

Now, the DOL's proposed regulations dramatically increase the minimum salary threshold for exempt status to \$50,440.00 (\$970 per week). This increase will cause many employees who had been classified as exempt to be classified as non-exempt, and therefore they must be paid on an hourly basis. The DOL is also considering whether non-discretionary bonuses and incentive payments should be included to determine whether the new salary threshold has been met.

The proposed regulations also increase the highly compensated threshold from \$100,000.00 to \$122,148.00 to ensure those employees meet every other requirement of the highly compensated employee test.

Further, to prevent the new salary levels from becoming outdated, the Department is proposing to include an automatic annual update to the salary and compensation thresholds using either a fixed percentile of wages or the Consumer Price Index for urban consumers.

The DOL did not alter the various job duties required for the "white collar" exemptions. Instead, it is seeking comment as to whether the tests are working.

In its statement, the DOL admitted the proposed rulemaking will "transfer income from employers to employees in the form of higher earnings."

We believe these new regulations significantly change the classification landscape for exempt employees and will require all employers to review and revise their employee classifications in order to remain compliant with the FLSA.

We highly recommend all employers audit their current exemptions in light of these changes. Baker Donelson's FLSA Audit Team has conducted countless FLSA audits and is familiar with the revised regulations. Our audit team will determine whether your current exemption classifications meet the new salary basis requirements, and we will work with you to comply with the new regulations. We also offer training sessions for employees who were formerly salaried to emphasize their new obligations to clock in and out.

Please contact your Baker Donelson lawyer or one of the FLSA Audit Team members with any questions or to schedule your audit.