

FLSA Overtime Rules: How to Prepare

The U.S. Department of Labor (DOL) announced final regulations that raise the minimum salary requirement for the administrative, professional, executive and highly compensated employee exemptions under the Fair Labor Standards Act (FLSA). Organizations were given until December 1, 2016 to comply.*

* On November 22, 2016, a U.S. District Court temporarily blocked the new overtime rules from going into effect on December 1, 2016. Read the [Eye on Washington](#) to learn more.

What Are Exempt and Non-Exempt Employees?

Employee

A worker who is economically dependent on the business they work for, according to the [DOL](#). (As opposed to a contract worker, whose income is not dependent on a single employer.)

Non-Exempt

An employee who is entitled to at least minimum wage for each hour worked and overtime when working more than 40 hours in a workweek.

Exempt

A salaried employee who isn't entitled to overtime and must satisfy certain salary level, salary basis and duties tests.

How do you make sure your organization is compliant? Follow the flow chart to find out.

Is the employee currently classified as non-exempt or exempt from overtime under the FLSA?

Non-Exempt

No action required.

Exempt

Does the employee meet the duties test under the administrative, professional or executive employee exemption?*

Yes

Does the employee earn a weekly salary of at least \$913?

Yes

No action required.

No

Reclassify the employee as non-exempt and pay overtime whenever he or she works more than 40 hours per week.

No

To comply, either

1

Raise his or her salary to at least \$913 per week.

2

Reclassify the employee as non-exempt and pay overtime.

*In order to qualify for executive, administrative or professional exemption, employees must satisfy the following:

Executive Exemption:

An employee's primary duty must be managing an enterprise or subdivision thereof. The employee must customarily and regularly direct the work of at least two or more other full-time employees; and have the authority to hire or fire other employees.

Administrative Exemption:

An employee's primary duty must be office or non-manual work related to the business. The employee's primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

Professional Exemption:

An employee's primary duty must be the performance of work requiring advanced knowledge in science or learning, or invention, imagination, originality or talent.

What Are the Fair Labor Standard Act (FLSA) Overtime Changes?

Employees who meet the administrative, professional, and executive exemptions must be paid a minimum of \$913 per week. Automatic increases to the salary threshold will take place every three years. Also, the final regulations amends the salary basis test to allow employers to use nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10 percent of this new standard salary level.

This flowchart does not address the rule changes for highly compensated employees (HCEs), which would increase the total annual compensation requirement needed to be classified as exempt from \$100,000 to \$134,004.

For more information: www.adp.com/flsa