

March 8, 2019

## DOL Proposes \$35K as New Overtime Rule Threshold

By Jen Givens

A long-awaited announcement was made yesterday from the U.S. Department of Labor (“DOL”) who published a proposal raising the salary level requirements to \$35,308 per year (\$679 per week) for white collar exemptions. The proposed threshold, up from the current \$23,660 (\$455 per week), is estimated to provide overtime eligibility to more than a million additional U.S. workers if passed.

Other proposed changes from the announcement include:

- The new salary level requirement can be met by using annual or more frequent nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10% of the salary level test. This is a change from the 2016 proposal which required nondiscretionary bonuses to be paid at least quarterly to be included.
- The proposed Highly Compensated Employees (HCE) threshold is \$147,414, up from the current level of \$100,000. The Obama administration proposed \$134,004 in 2016.
- No changes to the duties requirements – meaning job reclassification, if any, will be based only on salary.
- No automatic increases, as proposed in 2016, however, the DOL is proposing a required review every four years to ensure the threshold keeps up with inflation.



As a reminder, the Fair Labor Standards Act does not preempt stricter state standards. The public has 60 days to respond to the announcement. A final ruling is expected by January 2020.

We will continue to inform you of any advances in the proposed overtime rules as they become available.

Questions? Please contact the Findley consultant you regularly work with, Jen Givens at [Jen.Givens@findley.com](mailto:Jen.Givens@findley.com), 216-875-1944.