

## FLSA Overtime Salary Changes

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Government and nonprofit organization's budgets have been burdened by inflation and increases in wages necessary for retaining employees, but a new challenge is on the way. The Department of Labor's Wage and Hour Division (DOL) issued [a final rule](#) on April 23, 2024, that has two phases. The first phase was effective July 1, 2024, and increased the minimum salary threshold for the overtime exemption under the Fair Labor Standards Act (FLSA) to \$43,888 per year (\$844 per week). The second phase will be effective on January 1, 2025, and will increase the minimum salary threshold for the overtime exemption to \$58,646 per year (\$1,128 per week). The final rule that increased the thresholds also set in motion a mechanism to provide automatic updates to the thresholds every three years starting July 1, 2027.

One important item to keep in mind is that the updates to the minimum salary threshold did not change the test for determining if the employee is exempt from overtime. The following tests should be applied:

- Are the employee's weekly wages above the minimum salary threshold? If not, then it does not matter what the employee's job duties are, the employee would be eligible for overtime.
  - Does the employee meet all of the executive employee exemption:
    - Primary duty must be managing the enterprise, or managing a department or subdivision
    - Customarily and regularly direct the work of two or more full-time employees
    - Authority to hire or fire employees or input be given particular weight
- Does the employee meet all of the administrative employee exemption:
  - Primary duty must be the performance of office or non-manual work directly related to the management or general business operations of the employer

- Primary duty includes the exercise of discretion and independent judgment
- Does the employee meet all of the learned professional exemption:
  - - Primary duty must be the performance of work requiring advanced knowledge, primarily intellectual in nature, and consistent exercise of discretion and judgment
- Advanced knowledge must be in a field of science or learning
  - Advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction
- There are also exemptions for computer employees, highly compensated employees, blue collar, first responders, teachers, and other categories of employees. The [DOL website](#) is a good reference point and legal assistance may be required in certain situations. In addition, the DOL has a [webinar](#) on the final rule that will help answer questions.

Your organization will only have a few options for those employees who were previously classified as exempt from overtime; however, a few steps should be taken to ensure compliance with the increase on January 1, 2025:

1. Identify currently exempt employees who earn less than \$58,656 per year
2. Estimate the number of overtime hours for the currently exempt employee's work
3. Determine if the budget allows for the necessary budget increases to keep the employees exempt or if the employees will be reclassified as non-exempt and will be eligible for overtime
4. For those employees who will be reclassified as non-exempt the organization should communicate restrictions on overtime, if applicable and the need to track hours worked
5. Other changes may be required as these non-exempt employees are used to working outside normal hours on an as-needed basis and communicating on phones by text or email regarding issues at work

With the recent U.S. Supreme Court decision to overturn the Chevron doctrine, which allowed governmental agencies deference in making decisions, there is some speculation that the changes in the overtime rule may get overturned or not go into effect in January 2025. However, organizations should not delay planning for the changes to ensure that the planning can be done for potential increases in expenses and the appropriate employees can be trained on any procedural changes. If you have any questions, please feel free to [reach out](#).

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