

INSIGHTS

Department of Labor Releases Proposed Rule to Update White Collar Exemptions to the FLSA's Overtime Requirement

July 2, 2015

On June 30, 2015, the Department of Labor (DOL) released a Proposed Rule to update the regulations governing overtime requirements for executive, administrative, and professional employees (white collar employees). Under the Proposed Rule, the required salary level for white collar employees who are exempted from overtime requirements will increase substantially. While the DOL did not specifically seek to amend the duties tests of the exemption in the Proposed Rule, it is seeking comment on whether the duties tests are working as intended to screen out employees who are not bona fide white collar employees.

First, the DOL seeks to increase the minimum qualifying salary level for exempt white collar employees from the current level of \$455 per week (\$23,660 per year) to an estimated \$970 per week (\$50,440 a year) in 2016. This figure is based on the salary level of the 40th percentile of weekly earnings for full-time salaried workers. The Proposed Rule seeks to update this figure annually as tied to the 40th percentile figure.

Second, the DOL seeks to increase the total annual compensation needed for the exemption of highly compensated employees (HCEs) from \$100,000 to \$122,148 annually, based on the value of the 90th percentile of earnings of full-time salaried workers. The Proposed Rule also seeks to update this figure annually tied to the 90th percentile figure.

Once this Proposed Rule is published in the Federal Register, the DOL will solicit comments on the rule for 60 days. Following this process, it will take the DOL months to complete a Final Rule, and for any changes to go into effect. Nevertheless, it is a certainty that the minimum salary requirements for the white collar employee exemptions will increase significantly once the Final Rule is implemented.

If you would like a copy of the Proposed Rule, or should you have any questions, please contact Robert Sheeder in our Dallas, Texas Office at (214) 758-1643 or Rober.Sheeder@bgllp.com or contact Clay Davis in our Dallas, Texas Office at (214) 758-1023 or Clay.Davis@bgllp.com.