

# NLBMDA Guidance on DOL Overtime Regulations

On September 24, 2019, the U.S. Department of Labor (DOL) announced a final rule to make 1.3 million American workers newly eligible for overtime pay, including NLBMDA-recommended provisions that were ultimately approved in a final rule, which are effective **January 1, 2020**. NLBMDA is providing this information to assist member companies and workers in understanding the new requirements, along with providing several resources DOL has developed for the regulated community.

## New Requirements

The final rule updates the earnings thresholds necessary to exempt executive, administrative and professional employees from the Fair Labor Standards Act's (FLSA) minimum wage and overtime pay requirements, and allows employers to count a portion of certain bonuses/commissions towards meeting the salary level.

Below are key details from the new regulations:

- The salary minimum for exemption as an executive, administrative, or professional employee will jump from \$455 per week (\$23,660 per year) to \$684 per week (\$35,568 per year). The increase—the first in 15 years—is slightly higher than the threshold proposed back in March (\$679 per week, or \$35,308 per year), but is significantly lower than the Obama Administration's proposal from 2016.
- Up to 10% of the salary minimum can be satisfied through nondiscretionary bonuses, incentives, and/or commissions that are paid annually or more frequently. Employers can make a "catch up" payment at the end of the year (or within one period after the end of employment, if employment ends mid-year) to bring an employee up to the \$684-per-week minimum. This effectively brings the weekly salary minimum down to \$611.10 (provided there's a later payment of bonuses, commissions, or incentives covering the final 10% of the minimum salary).
- The threshold for exemption as a "highly compensated employee" will see a modest increase from \$100,000 to \$107,432 in total annual compensation. That's much lower than the \$147,414 threshold in the proposed rule. This was the recommendation of NLBMDA in written comments to DOL during the proposed rule stage.

**The final rule is effective on January 1, 2020.**

## Additional Guidance

In addition to the guidance above, the resources below from DOL are meant to assist employers with the new regulations and ensuring a smooth transition.

### **Fair Labor Standards Act (FLSA) Minimum Wage Poster**

Every employer of employees subject to the Fair Labor Standards Act's minimum wage provisions must post, and keep posted, a notice explaining the Act in a conspicuous place in all of their establishments so as to permit employees to readily read it. [Click here](#) for a copy of the poster in English and [click here](#) for a copy in Spanish.

### **Fact Sheets by Exemption**

- [Overview for Executive, Administrative, Professional, Computer, & Outside Sales Employees \(Spanish Version\)](#)
- [Executive Employees](#)
- [Administrative Employees](#)
- [Professional Employees](#)
- [Employees in Computer-Related Occupations](#)
- [Outside Sales Employees](#)
- [Salary Basis Requirement and the Part-541 Exemptions](#)
- [Highly-Compensated Workers and the Part-541 Exemptions](#)
- [Administrative Duties Tests](#)

[Employment Law Guide-Minimum Wage and Overtime Pay](#) - describes the statute and regulations administered by DOL that regulate minimum wage and overtime pay.

[Questions and Answers about Overtime Pay](#) - Answers questions ranging from when overtime pay is due and how many hours an employee may work.

[Overtime Laws in the States](#) - provides a clickable map that informs what the overtime laws are in each state.

[FLSA Handy Reference Guide \(Spanish Version\)](#)

[WH-134 Coefficient Table for Computing Extra Half-Time for Overtime](#)

[Model Salary Basis Policy for Exempt White Collar Workers](#)

[Comparison of Duties Tests for Exempt White Collar Workers](#)

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