

DOL'S 2024 SALARY THRESHOLD INCREASE VACATED BY TEXAS COURT

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By: Theresa A. Mongiovi, Esq.
Caitlin A. Donahue, Esq.

On November 15, 2024, the Eastern District of Texas vacated the Department of Labor's ("DOL") 2024 Rule increasing the minimum salary threshold required to meet overtime exemptions, with automatic periodic increases. The ruling restores the minimum salary levels that were in effect for exempt executive, administrative, and professional ("White-Collar") employees and highly compensated employees ("HCEs").

THE DOL'S 2024 RULE

To qualify for a White-Collar exemption, there are two tests which must be met: (1) the duties test; and (2) the salary basis test. In April 2024, the DOL issued the "2024 Rule" that increased by nearly 65 percent the minimum salary at which White-Collar and HCEs were exempt from minimum wage and overtime pay under the Fair Labor Standards Act ("FLSA").

The 2024 Rule implemented three (3) changes to be rolled out incrementally:

Earnings Threshold	Pre-2024 Rule Minimum Salary Amount	Minimum Salary Amount as of July 1, 2024	Minimum Salary Amount Beginning January 1, 2025
<u>Standard Salary Level for Executive, Administrative, and Professional Employees (White-Collar)</u>	\$684 per week (equivalent to \$35,568 annual salary)	\$844 per week (equivalent to a \$43,888 annual salary)	\$1,128 per week (equivalent to a \$58,656 annual salary)
<u>Total Annual Compensation Requirement for Highly Compensated Employees (HCEs)</u>	\$107,432 per year, including at least \$684 per week paid on a salary or fee basis	\$132,964 per year, including at least \$844 per week paid on a salary or fee basis	\$151,164 per year, including at least \$1,128 per week paid on a salary or fee basis

Beginning on July 1, 2027, the 2024 Rule also automatically updated the salary levels every three years based on then-current earnings data.

TEXAS COURT RULING

In cases consolidated by the Eastern District of Texas, Plaintiffs, the State of Texas and a coalition of trade associations and employers, filed a lawsuit contending that the 2024 Rule exceeded the DOL's authority because the 2024 Rule increased the minimum salary exemption to a level that effectively eliminated the duties-based inquiry required by the FLSA because of the significant increase in the salary basis. Initially, a preliminary injunction was issued enjoining the DOL from implementing and enforcing the 2024 Rule against the State of Texas as an employer. See *Texas v. DOL*, No. 4:24-CV-499, 2024 WL 3240618 (E.D. Tex. June 28, 2024).

On November 14th, the Court granted a Motion for Summary Judgment holding that the DOL exceeded the authority delegated by Congress in defining and delimiting the definitions of bona fide White-Collar exemptions under the FLSA. The Court held that the drastic increase in the salary thresholds previously excluded approximately 10 percent of employees from the exemption under the salary level test, but more than tripled that percentage. Consequently, the 2024 Rule effectively eliminated the duties test. Criticizing the DOL, the Court opined: "When a third of otherwise exempt employees who the Department acknowledges meet the duties test are, nonetheless, rendered nonexempt because of an atextual proxy characteristic—the increased salary level—something has gone seriously awry."

The Court also ruled that the automatic increases exceeded the DOL's authority and violated the notice and comment requirements of proposed agency regulations under the Administrative Procedures Act. The Court explained that the FLSA directs the DOL to revisit the White-Collar exemption "from time to time by regulations of the Secretary" governing the duties and functions of a White-Collar position, not the salary level. The DOL must abide by the mandate that agency rules having the force and effect of law must go through the notice and comment process. The Court ruled that the three (3) year automatic indexing mechanism within the 2024 Rule improperly evades notice and comment requirements.

As a result of the decision, the current salary threshold under the FLSA returns to \$684 per week for White-Collar employees, equivalent to a \$35,568 annual salary and an annual salary of \$107,432 per year for HCEs.

Employers should review all state minimum wage and overtime laws in which they operate as state laws may differ from federal law. When there are differences between state and federal laws or regulations, an employer must follow the law or regulation that provides the most protection to workers. Pennsylvania, for instance, does not recognize HCEs as a valid exemption. Additionally, the salary threshold for White-Collar employees in Pennsylvania is \$875 per week, equivalent to \$45,000 annually, as opposed to the FLSA's current threshold of \$684 per week or \$35,568 annually.

FUTURE OF THE 2024 RULE

The DOL may appeal the decision to the United States Court of Appeals for the Fifth Circuit or propose new regulations. If the DOL chooses to appeal the decision, the new

Administration may withdraw the appeal or choose not to defend the 2024 Rule on appeal. Stay tuned for more updates on how the Trump Administration will respond to this ruling.

If you have questions about the Texas court ruling, please feel free to contact Theresa Mongiovi, Chair of the Firm's Labor & Employment Law group at 717-391-4410. We continue to closely monitor and update you on developments.

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