

Steps to Mastering DOL Final Overtime Regulations

In May 2016, the Department of Labor finalized revised regulations which affect the Fair Labor Standards Act's "white collar" overtime exemptions. The regulations increase the salary threshold needed to qualify for overtime exemption from \$455/week (\$23,600 per year) to \$913/week (\$47,476/year). This increase will go into effect on December 1, 2016.

This final regulation has many implications for employers throughout the United States. Any business that employs exempt workers with salaries under \$47,476 is directly affected by the new regulations and need to consider their best course of action for each affected employee. Following are some steps to help you determine the best course of action.

Step 1 Identify employees making less than \$47,476 per year

Those who will be affected by these regulations are **salaried exempt employees making less than \$47,476 per year**. Employers should have a plan in place for each of these employees as they will become eligible for overtime pay starting December 1, 2016. Depending on their current salary, their role, the classification of their role and the number of hours they work, each employee will have a different outcome. You should start by creating a list of every exempt employee and their compensation to make the best decisions for your organization.

Step 2

Determine the actual hours these employees work per week

Once you have a list of exempt employees who earn a salary under \$47,476, you need to determine their approximate hours to see if they would be eligible for overtime pay. If you currently track these employees' hours, you can easily divide the employee's current salary by 52 (weeks in a year) and divide that number by the average hours worked per week.

Many employers do not currently track the number of hours that their salaried employees work. **If you do not track these employees' hours, you should begin doing so immediately.** Having an accurate calculation of hours worked per week will be very important as you seek to comply with these new regulations.

Step 3

Determine the appropriate hourly rate for affected employees

If you have employees who work more than 40 hours per week, you will need to determine their hourly rate and find out how overtime will affect them. This is critically important to make sure that you don't begin paying exorbitantly higher wages to employees who work long hours. Conversely, you may need to increase salaries for those who do work long hours if overtime is more of a standard than an exception for those employees. Here are some examples of how this could affect you.

Name	Current Salary	Hours Worked	New Annual Pay Under Final Law
Employee 1	\$30,000	48 hours/week	\$38,991.68
Employee 2	\$40,000	50 hours/week	\$55,000.40
Employee 3	\$45,000	44 hours/week	\$51,740.00
Employee 4	\$35,000	60 hours/week	\$61,266.40

Step 4

Calculate a new hourly rate for those salaried employees

With the information you've collected in steps 2 and 3, it is time for you to calculate the most accurate hourly salary for each employee to ensure that your labor costs remain reasonable. Let's again use the example from step 3. If employee 1 makes a \$30,000 salary and works 48 hours a week, we have four primary options to consider:

Note: Other options may exist beyond the four presented. Contact your legal counsel for other options that can work for your organization.

Option 1: Reclassify employee 1 from salaried to hourly. Adjust his hourly rate to reflect the expected overtime hours.

Option 2: Bump employee 1 salary to \$47,476 and don't worry about tracking his hours worked or paying overtime.

Option 3: Reclassify employee 1 and don't allow him and similar employees to work overtime. If employee 1 works unauthorized overtime, you still have to pay him for it. While you will reduce costs, in the example, you will lose 8 hours of the employee's work.

Option 4: Reclassify employee 1 without properly adjusting his rate of pay and watch his annual pay grow by \$8,991.68

Step 5

Prepare to have a conversation with your employees

Your employees will have many questions around this change. You will want to have an effective communication plan to help your employees understand this. There will be many important points you'll have to share with them. For example, a salaried employee who has to be reclassified to non-exempt may be accustomed to going to lunch or personal appointments without punching out.

Under the final regulations, the employee will have to record when they leave and when they return for compliance and pay purposes. Be sure to set up one-on-one time with affected employees to explain the law, describe the change and expectations and assure the employee of their importance to your organization. Some employees will see this change as a demotion or a pain point with their role. Having a meaningful conversation about why you had to make these updates will make the transition easier.

Step 6

Begin tracking reclassified employees' hours

The end result of the final regulations will be that you have to reclassify many of your exempt employees to non-exempt and begin paying them on an hourly (or salaried basis) plus overtime. That means you will need to begin tracking these newly classified employees' hours to ensure you are paying them properly and your business is protected in the event of an audit.