

RESOURCES

Salary Overtime Threshold to Increase in 2020

On January 1, 2020, the salary threshold for “white collar” exemption from overtime will increase to \$684 per week (\$35,568 annualized).

In order to qualify for the “white collar” exemption from overtime (available for certain executive, administrative, and professional employees), the employee must meet both a “duties” test and be paid on a “salary” basis. Under Department of Labor rules, being paid on a “salary basis” means an employee must regularly receive a predetermined amount of compensation each pay period on a weekly, or less frequent, basis. The predetermined amount cannot be reduced because of variations in the quality or quantity of the employee’s work. Subject to certain exceptions, an exempt employee must receive his or her full salary for any week in which they perform any work, regardless of the number of days or hours worked.

On September 24, 2019, the U.S. Department of Labor issued a press release announcing that, beginning January 1, 2020, the “standard salary level” required for the “white collar” exemption (executive, administrative, and professional exemption) will be raised from the currently enforced level of \$455 per week (equivalent to \$23,660 per year) to \$684 per week (equivalent to \$35,568 per year). Additionally, the new rule will raise the total annual compensation level for “highly compensated employees” from the currently-enforced level of \$100,000 to \$107,432 per year and allow employers to use nondiscretionary bonuses and incentive payments (including commissions) that are paid at least annually to satisfy up to 10 percent of the standard salary level.

Beginning January 1, 2020, previously exempt employees who do not receive at least \$684 per week on a salary basis will no longer be eligible for the overtime exemption and will have to be paid overtime at one and one-half times their regular rate for all hours worked in excess of 40. When an employee is paid on a salary basis, the employee’s regular rate can be computed by dividing the hours worked per week into the salary for that week. The employee would then need to be paid an additional half time for all hours worked in excess of 40.

Employers who cannot afford to pay salary at the new level may enter into agreements with employees to compensate them on an hourly basis going forward. Where the overtime has been fairly constant, a regular hourly rate can be computed so that, even with anticipated overtime, the weekly compensation paid to the employee will approximate the compensation the employee was receiving prior to this new rule.

Carruthers & Roth, P.A.
(336) 379-8651
235 North Edgeworth Street
P.O. Box 540 (27402)
Greensboro, NC 27401