



## Proposed Overtime Rule Expected Soon

It is anticipated that the Biden administration will soon raise the salary necessary to establish that certain white-collar employees are exempt from (not eligible for) overtime pay. In 2019, the Trump administration increased the salary levels required to qualify for these exemptions to \$684 per week. This new rule would likely raise the minimum salary even higher. It is anticipated that the proposed minimum salary level for the Fair Labor Standards Act's executive, administrative and professional exemptions could rise to \$913 per week (\$47,476 per year), if not more.

It should be noted that in order to qualify for these FLSA exemptions, an employee must also meet a duties test. Therefore, in addition to making a minimum salary, the employee's primary duty must fall within one of these three categories:

- **Executive exemption.** The employee's primary duty must be managing a department or subdivision. The employee must customarily and regularly direct the work of at least two employees and have the authority to hire or fire workers (or suggestions and recommendations as to hiring, firing, or changing the status of other employees must be given particular weight).
- **Administrative exemption.** The employee's primary duty must be performing office or nonmanual work that is directly related to the management or general business operations of the employer. The employee's primary duty also must include the exercise of discretion and independent judgment with respect to their area of management and business operations.
- **Professional exemption.** The employee's primary duty must be to perform work requiring advanced knowledge in a field of science or learning that is customarily acquired by prolonged, specialized, intellectual instruction and study.

The anticipated overtime regulations may also tighten the duties required to qualify for the exemptions and make it more difficult for an employer to fit employees within these exemptions. We will keep you posted.

For more information, please contact [Tony Stergio](#).