



DOL Exempt Employee Salary Increases:

What Employers Need to Do Now

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Agenda

- The new rule
- Information gathering and decision-making
- Implementation of the changes



Effective July 1, 2024

- Executive, Administrative, Professional, and Salaried Computer Employees (EAP) must make at least \$844 per week (\$43,888 per year)
- Highly Compensated Employees (HCE) must make at least \$132,964 (with at least \$844 of that per week on salary basis)

Effective January 1, 2025

- Executive, Administrative, Professional, and Salaried Computer Employees (EAP) must make at least \$1,128 per week (\$58,656 per year)
- Highly Compensated Employees must make at least \$151,164 (with at least \$1,128 of that per week on salary basis)



Commissions, Bonuses, and Incentive Pay: Nothing New!



- Up to 10% of the minimum salary can come from commissions and discretionary bonuses (base pay must be ~\$39,450/\$52,790)
- Commissions and/or bonuses must be paid out at least quarterly
- If not enough is earned in commission or bonuses to keep the exemption:
 - Make catch-up payment within one pay period, OR
 - Reclassify the employee as non-exempt and pay overtime retroactively

What about state law?

Most employee-friendly law wins. Possible differences:

- Higher minimum salary level
- Some exemptions not available under state law
- Specific exemption rules or duties tests

California: Already higher than federal in 2025

Washington: Already higher than federal in 2025

New York: Already higher than federal in 2025 in NYC, Suffolk, Nassau, and Westchester County; lower (by \$4) in downstate NY, but this will increase Dec 31



Poll Questions

Deciding What to Do



Your Options are Simple

1. Raise salaries to maintain exemption
2. Re-classify employees as non-exempt

Step-by-Step

1. Identify affected employees. In preparation for *January*, consider looking at everyone who makes \$65,000 or less so you're aware of potential wage compression issues.
2. Conduct a time tracking exercise with anyone below the new minimum.
3. Decide what to do. Consider quantity of overtime hours worked, your budget, wage compression, fairness, morale, etc.



What is Wage Compression?

When the minimum salary for a position is increased but raises aren't issued for those *not* at the minimum, you get wage compression.

Example:

- Joe started a few months ago and makes \$55,000
- Kerry has been in the same position as Joe for three years and is making \$60,000
- Joe gets a 6.7% raise to \$58,686 to stay exempt, but Kerry gets no raise



The Time Tracking Exercise

- “How much overtime are you doing on average?”
- Have them spend some time thinking back on the year and considering projects, staffing issues, slow times, busy times, deadlines
- Start tracking now for those who aren’t affected this July (\$44k) but will be in January (\$59k)
 - Sticky note, spreadsheet, Word doc, notes on phone, free app-based time tracker
- Explain your reasoning



Compensation Calculations if Reclassifying as Non-Exempt

- **Standard equation** – assumes no overtime once reclassified.

Yearly salary / 2080

$$\$50,000 / 2080 = \$24.04 \text{ per hour}$$

- **Cost-neutral equation** – assumes the same number of overtime hours will continue to be worked and finds the hourly rate that should be paid to see *no increase* to the employee's pay. Example is for someone working 10 hours of overtime per week.

Yearly salary / (2080 + 1.5 x yearly overtime hours)

$$\$50,000 / (2080 + 1.5 \times 520) = \$17.48 \text{ per hour}$$

Compensation Considerations

Fair hourly rates: will cost-neutral math lead to strange—and now very visible—pay discrepancies?

Examples:

→\$45,000 per year, 43 hours per week: \$19.44 per hour

→\$50,000 per year, 50 hours per week: \$17.48 per hour

→\$50,000 per year, 45 hours per week: \$20.24 per hour

→\$58,000 per year, 52 hours per week: \$19.23 per hour

How much are their subordinates paid?





Compensation Considerations

Fair classifications: employees in the same position should be classified the same unless there is a compelling business reason to do otherwise

Wage compression: if you give a junior employee a raise to meet the threshold, should the senior employees receive a raise as well? (Yes)

Compensation Considerations

Pay equity: make sure you aren't giving raises to some employees but not others who do comparable work or reducing some people to lower hourly wages than their equals when using cost-neutral math.

Example: comparable employees Dee and Haritha work in different engineering departments of the same software company. Dee is the only person currently below the new threshold in his department, while Haritha is on a large team of people below the threshold. Dee gets a raise to make things easy for his team, Haritha does not.

Pay equity claims can cross job titles and departments



Poll Question

Implementing the Changes



Pick a not-mid-pay period effective date

The changes take effect July 1 and January 1, but you'll want to make the classification change on the start of the payroll period *prior* to that.

Communicate the Changes

- Alleviate morale issues by explaining why the changes are happening
- If this will cause mass changes, consider a company-wide communication or meeting
- Issue formal classification change letters to affected employees in advance of your chosen effective date. Include:
 - FLSA classification as nonexempt
 - Type and rate of pay
 - Expected schedule, including any overtime
 - New-to-them policies they'll need to follow



Redistribute Relevant Policies (and know state law)

- Overtime
- Timekeeping
- Off-the-clock work
- Meal and rest breaks
- Use of personal electronic devices





Train and Answer Questions as Needed

- Train newly non-exempt employees on the policies they'll now need to follow
- Train supervisors and managers on the policies they'll need to enforce for those who have been reclassified
- Be prepared to answer questions that might seem basic or annoying (e.g., do I log the 90 seconds I spent checking my email last night?)
- Allow everyone some grace and time to adjust

Monitor Budgets and Morale

There might be excessive overtime at first – be diligent about following up with the employees and managers responsible and trying to help solve the problems that are causing it.

Ask employees how they're doing. They might love it! If they don't, find out why and see what you can do to improve the situation for them.

Likely issue: loss of flexibility.

Likely fix: figure out how to be flexible!



Q & A

Resources on Mineral

- Employee Reclassification Letter – Exempt to Nonexempt
- FLSA Changes: Decision Making Guide
- FLSA Changes: Implementation Guide

Thank You