

DEPARTMENT OF LABOR ISSUES NEW OVERTIME RULES

As expected, the Department of Labor (DOL) has issued new rules for which employees must be paid overtime under the Fair Labor Standards Act (FLSA). **The new thresholds go into effect on December 1, 2016.**

Under the FLSA, an employer is required to pay overtime (time-and-a-half) to an employee for hours worked beyond 40 per week, unless he meets both of the following: (1) he is paid at least the minimum salary threshold; and (2) he performs exempt (i.e., discretionary) functions that are executive, administrative, or professional in nature. An employer is also not required to pay overtime to an employee who meets the definition of "highly compensated" under the FLSA, regardless of job function.

The new regulations make the following key changes:

- Increase the minimum salary threshold **from \$455 per week (approximately \$23,660 annually) to \$913 per week (approximately \$47,476 annually).**
- Increase the total annual compensation level for highly compensated employees **from \$100,000 to \$134,004.**
- Install an automatic update procedure, **which will update the salary thresholds every three years** (beginning January 1, 2020). The update will raise the minimum salaries required to meet the minimum threshold and highly compensated exemptions to the **40th and 90th percentile of national full-time salaried workers, respectively.**

Some have estimated that these new rules could make up to 4.2 million new workers eligible to receive overtime pay. Employers should carefully review their employee classifications and ensure that they are compliant with the new standards prior to December 1st.