

# U.S. DOL PROPOSES NEW OVERTIME RULES

*Hodgson Russ Home Care Alert*  
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Last evening, the U.S. Department of Labor released a proposed amendment to the regulations that establish minimum wage and overtime exemptions for executive, administrative, and professional employees under the Fair Labor Standards Act (these exemptions are commonly known as the “white collar” exemptions). If adopted, these regulations would re-define who qualifies for overtime and minimum wage exemptions.

The proposed regulations state, in critical part:

- The minimum salary levels for professional, executive and administrative employees would increase to \$679.00 per week (\$35,308 annually). Currently, to be exempt from minimum wage and overtime under the federal rules, employers are required to pay administrative, professional and executive employees at least \$455 per week (\$23,660 annually) on a salary basis. In New York, however, the minimum salary level for administrative and executive employees is \$1,125/week for large New York City employers, \$1,012.50/week for small New York City employers, \$900/week for employers on Long Island and in Westchester, and \$832/week for employers in the rest of the State. However, there is no minimum salary requirement for “professional” employees in New York. Thus, the proposed rule, if adopted, would require employers in New York State to pay employees that are classified as exempt under the “professional” exemption at least \$670/week on a salary basis in order to preserve those employees’ exempt status.
- Under the federal rule, employers would be able to satisfy up to 10% of the minimum salary requirements through non-discretionary payments. The current regulations do not permit this. This 10% allowance would not be permitted for employees who are classified as exempt under the “highly compensated employee” exemption. To take advantage of this 10% rule, the additional compensation must be paid annually. Thus, an employer could make “catch-up” payments annually in order to satisfy the minimum salary requirements for its exempt employees. The catch-up payment will have to be made, however, no later than the next pay period after the end of the year.
- For employees classified as exempt under the “highly-compensated” exemption, employers will be required to raise such employees’ annual compensation from \$100,000 to \$147,414. The U.S. DOL estimates that this change will impact 201,100 employees who earn between \$100,000 and the proposed amount.
- The U.S. DOL proposes to update the annual salary levels every four (4) years

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through a formal rulemaking process. The minimum salary thresholds will not increase automatically.

- The U.S. DOL is not proposing any changes to the duties that employees must perform in order to be exempt from the minimum wage and overtime requirements.