

LABOR AND EMPLOYMENT LAW

INFORMATION MEMO

APRIL 25, 2024

U.S. Department of Labor Announces its Final Rule to Increase the Salary Level to Qualify for the White Collar Exemptions

On April 23, 2024, the U.S. Department of Labor announced its [final rule](#) to increase the minimum weekly salary to qualify for the Fair Labor Standards Act white collar exemptions. The final rule is scheduled to be published in the Federal Register on April 26, 2024, and will become effective on July 1, 2024.

Under the final rule, the minimum weekly salary will increase in two stages. On July 1, 2024, the minimum weekly salary to qualify for the executive, administrative, and professional exemptions will increase from \$684 per week (the annual equivalent of \$35,568) to \$844 per week (the annual equivalent of \$43,888). This new salary level is based on the 20th percentile of weekly earnings of full-time salaried workers in the lowest-wage Census Region. On January 1, 2025, the minimum weekly salary to qualify for the executive, administrative, and professional exemptions will increase to \$1,128 per week (the annual equivalent of \$58,656). This new salary level is based on the 35th percentile of weekly earnings of full-time salaried workers in the lowest-wage Census Region. The final rule does not make any changes to the duties requirements for any of the white collar exemptions, and still includes exceptions to the salary level and salary basis requirements for teachers, lawyers, doctors, medical interns, and medical residents.

The USDOL's final rule also increases the annual salary threshold to qualify for the highly compensated employee exemption in two stages. On July 1, 2024, the threshold will increase from \$107,432 to \$132,964, which is based on the 80th percentile of annual earnings of full-time salaried workers nationally. On January 1, 2025, the threshold will increase to \$151,164, which is based on the 85th percentile of annual earnings of full-time salaried workers nationally. To qualify for the highly compensated employee exemption, an employee must meet the annual salary threshold and must satisfy at least one element of the duties test for the executive, administrative, or professional exemption.

The final rule also establishes automatic increases to these salary levels every three years, beginning on July 1, 2027. The minimum weekly salary level to qualify for the executive, administrative, and professional exemptions will be based on the 35th percentile of weekly earnings of full-time salaried workers in the lowest-wage Census Region, and the minimum annual salary level to qualify for the highly compensated employee exemption will be based on the 85th percentile of earnings of full-time salaried workers nationally.

New York's minimum salary level in 2024 to qualify for the executive and administrative exemptions is higher than \$844 per week in all regions (\$1,200 in downstate New York and \$1,124.20 in upstate

New York). New York's minimum salary level in 2025 to qualify for the executive and administrative exemptions will also be higher than \$1,128 per week in all regions (\$1,237.50 in downstate New York and \$1,161.65 in upstate New York). However, New York does not set a minimum salary level to qualify for the professional exemption, so employers will need to review the salary levels of their professional employees to ensure that they meet the new federal threshold. In addition, New York's minimum salary threshold to qualify for the executive and administrative exemptions is "inclusive of board, lodging, or other allowances and facilities," but the federal minimum salary threshold must be "exclusive of board, lodging, or other facilities." So, employers that count housing or meal allowances toward the New York minimum salary threshold will need to ensure that the new federal salary threshold is met when those housing or meal allowances are excluded.

There may be some legal challenges to the final rule, just as there were in 2016 after the USDOL issued a final rule increasing the exempt salary threshold to \$913 per week. In 2016, the U.S. District Court for the Eastern District of Texas issued a nationwide injunction prohibiting the USDOL from implementing the final rule. If there are any court decisions or other developments that impact the implementation of this final rule, we will post updates on this blog.

If you have questions about the information presented in this memo, please contact [Subhash Viswanathan](#), any attorney in Bond's [labor and employment practice](#) or the Bond attorney with whom you are regularly in contact.

