

LABOR AND EMPLOYMENT LAW

INFORMATION MEMO

DECEMBER 27, 2023

Update: The NYSDOL's Proposed Regulations Increasing the Exempt Salary Levels Have Been Adopted as Final Regulations

On Dec. 27, 2023, the New York State Department of Labor (NYSDOL) published a Notice of Adoption of its proposed regulations in the State Register, which means the minimum weekly salary to qualify for the executive and administrative exemptions will officially increase effective Jan. 1, 2024. The NYSDOL did not make any changes to its proposed regulations, so the following increases will occur:

- Effective on Jan. 1, 2024 – \$1,200 in downstate New York and \$1,124.20 in upstate New York;
- Effective on Jan. 1, 2025 – \$1,237.50 in downstate New York and \$1,161.65 in upstate New York;
- Effective on Jan. 1, 2026 – \$1,275 in downstate New York and \$1,199.10 in upstate New York.

There is no minimum weekly salary under New York law to qualify for the professional exemption. However, with a few exceptions (such as for teachers, doctors and lawyers), employers still must comply with the federal minimum weekly salary in order to classify employees as exempt under the professional exemption. The federal minimum weekly salary is currently \$684, but the U.S. Department of Labor has issued [proposed regulations](#) to increase that amount.

The NYSDOL's final regulations also include the following increases to the hourly tip credits that employers in the hospitality industry may use for the compensation of food service workers and service employees effective Jan. 1, 2024:

- Food service workers – \$5.35 tip credit/\$10.65 minimum wage in downstate New York and \$5.00 tip credit/\$10.00 minimum wage in upstate New York; and
- Service employees – \$2.65 tip credit/\$13.35 minimum wage in downstate New York and \$2.50 tip credit/\$12.50 minimum wage in upstate New York.

The NYSDOL's final regulations also provide for increases to the hourly tip credits in the hospitality industry when the minimum wage increases in 2025 and 2026. In all regions of New York, the tip credit for food service workers will increase by \$0.15 per hour on Jan. 1, 2025, and Jan. 1, 2026, and the tip credit for service employees will increase by \$0.10 per hour on Jan. 1, 2025, and Jan. 1, 2026.

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

