



LONG-AWAITED OVERTIME LAW CHANGE ARRIVES

by [Gray Reed's Labor and Employment Practice Group](#)
September 27, 2019



The Department of Labor recently announced that it is raising the minimum annual salary required on certain overtime exemptions from \$455 per week to \$684 per week, which equates to \$35,568 per year. Also, the requirement for the highly compensated worker exemption is being increased from \$100,000 to \$107,432. **These changes go into effect January 1, 2020.**

WHAT DOES THIS MEAN FOR EMPLOYERS?

Numerous employees are currently exempt from overtime as administrative or executive employees under the current salary threshold of \$455 per week (assuming they also meet the applicable duties test). However, as of January 1, 2020, those currently exempt employees will become non-exempt and due overtime wages unless their base salary is raised to \$684 per week. If such an employee regularly works overtime, it may make financial sense for the employer to raise that employee's base salary to meet the new threshold to avoid paying one and a half times the employee's regular rate for all hours worked over forty in a single workweek. However, if a presently exempt employee rarely works overtime, an employer would likely not want to raise that employee's salary to comply with the new regulations.

For example, if a company's human resources manager who falls under the administrative exemption works an average of 45 hours per week and is currently paid \$455 per week, the employer should not raise the human resources manager's salary to \$684 to maintain the exemption. Here is how the math breaks down under the new salary thresholds:

Hours	Weekly Salary – 40 Hours	Weekly Overtime Pay	Weekly Total Pay
45	\$455	\$85.31	\$540.31
45	\$684	\$0.00	\$684.00

Clearly, it would be cheaper for the employer to continue paying the human resources manager \$455 salary per week plus the overtime wages rather than increase the human resources manager's salary to \$684 per week. On the other hand, if this same human resources manager works an average of 55 hours per week, the employer should raise the human resources manager's salary to \$684 to maintain the exemption:

Hours	Weekly Salary – 40 Hours	Weekly Overtime Pay	Weekly Total Pay
55	\$455	\$255.94	\$710.94
55	\$684	\$0.00	\$684.00

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WHAT EMPLOYERS NEED TO DO?

Employers can certainly begin to evaluate the economic effect of adjusting salaries to meet the new exemption, but we recommend holding off on implementing any changes immediately. There is plenty of time to gear up for a change that starts at the beginning of 2020.

Employers should also consult with qualified employment law counsel about the details of the change and which employees may be affected. The Department of Labor estimates that only 1.3 million workers will be affected by the law so most employees will not be included. The rule does not affect all exemptions and employers should be careful not to accidentally increase the wages of employees unaffected by the new rule.

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