



Final White Collar Exemption Salary Announced **New York Salary Thresholds Remain Higher Than Federal**

On September 24, the U.S. Department of Labor ([DOL](#)) [published](#) its [final rule](#) updating the minimum salary level for executive, administrative or professional employees to be exempt from the Fair Labor Standards Act ([FLSA](#)) minimum wage and overtime pay requirements.

Beginning January 1, 2020, the salary threshold for exempt employees will increase from \$455 per week to \$684 per week (\$35,568 per year). Employers may pay up to 10% of that salary in non-discretionary bonuses, incentives and/or commissions. DOL estimates that the new rule will cause approximately 1.3 million more workers to become eligible for overtime under the FLSA.

The new rule will not impact workers in New York State, because it has set higher minimum salary levels for white collar exemptions. As of December 31, 2019, New York's executive and administrative salary threshold will range from \$46,020 to \$58,500 per year, depending on the location of a business and the number of employees it has. Currently, New York's threshold ranges from \$43,264 to \$58,500 per year.

To qualify for an exemption from overtime under the Federal and New York State rules, an employee's position must satisfy both the applicable "salary level test" and the applicable "duties test." We note that DOL's new rule changes the salary level tests for white collar exemptions, but does not alter the duties tests.

DOL also stated that while the white collar exemption salary threshold has not changed since 2004, it anticipates proposing rules to update the salary threshold every four years going forward.

While the New York State rule is already in effect, employers should assess, on an ongoing basis, whether they have accurately classified the members of their workforce as exempt or non-exempt. Please [contact](#) Michael Weiner with questions regarding employee classification for the white collar exemption rule.

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