

## **FLSA Final Overtime Exemption**

### **Key Provisions of the Final Rule**

The Final Rule focuses primarily on updating the salary and compensation levels needed for Executive, Administrative and Professional workers to be exempt. Specifically, the Final Rule:

1. Sets the standard salary level at the 40th percentile of earnings of full-time salaried workers in the lowest-wage Census Region, currently the South (\$913 per week; \$47,476 annually for a full-year worker);
2. Sets the total annual compensation requirement for highly compensated employees (HCE) subject to a minimal duties test to the annual equivalent of the 90th percentile of full-time salaried workers nationally (\$134,004); and
3. Establishes a mechanism for automatically updating the salary and compensation levels every three years to maintain the levels at the above percentiles and to ensure that they continue to provide useful and effective tests for exemption.

Additionally, the Final Rule amends the salary basis test to allow employers to use nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10 percent of the new standard salary level.

### **The effective date of the final rule is December 1, 2016.**

The initial increases to the standard salary level (from \$455 to \$913 per week) and HCE total annual compensation requirement (from \$100,000 to \$134,004 per year) will be effective on that date. Future automatic updates to those thresholds will occur every three years, beginning on January 1, 2020.

### **FLSA Overtime Links:**

#### **Overview**

<https://www.dol.gov/sites/default/files/overtime-overview.pdf>

#### **FAQ**

<https://www.dol.gov/WHD/overtime/final2016/faq.htm>

#### **Employers Guide**

<https://www.dol.gov/whd/overtime/final2016/general-guidance.pdf>

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<b>Compensation Services</b>	<b>Job Classification Services</b>	<b>Services May Include</b>
<ul style="list-style-type: none"> <li>○ Comparative Market Pricing and Analysis</li> <li>○ Wage &amp; Salary Administration Policy</li> <li>○ Incentive Plan Design and Alternative Pay Programs</li> <li>○ Executive Compensation Review</li> <li>○ Performance Management</li> </ul>	<ul style="list-style-type: none"> <li>○ Job Analysis and Evaluation Programs</li> <li>○ Job Descriptions</li> <li>○ FLSA Exemption Review (“exempt” vs. “nonexempt”)</li> <li>○ Salary Grades</li> </ul>	<ul style="list-style-type: none"> <li>○ Documentation and recommendations for compensation policies</li> <li>○ Implementation, including employee &amp; management training</li> <li>○ Strategic planning on compensation issues</li> <li>○ Compensation philosophy development</li> <li>○ Online solutions</li> </ul>

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- **Juan P. Garcia – Organizational Research Services Director**
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