

# State Laws Complicate Salary Requirements for Exempt Employees

By Grant Goerke and Paul Piccigallo on August 12, 2024

With the U.S. Department of Labor's recent increases to the minimum salary or fee amount for certain exempt employees, many employers are reviewing the exemption status of their employees. In doing so, employers should be mindful of varying state law requirements, which may be higher than even the newly increased federal thresholds.

## **Increased salary thresholds for white-collar exemptions under FLSA**

In April 2024, the DOL issued final regulations raising the white-collar exemption salary threshold under the Fair Labor Standards Act (FLSA). The first increase under this rule went into effect on July 1, 2024, increasing the minimum salary for the executive, administrative, and professional exemptions to \$844 per week (approximately \$43,888 per year). Another increase is planned for January 1, 2025—further raising the threshold to \$1,128 per week (approximately \$58,656 per year)—and automatic increases will commence on July 1, 2027, and every three years thereafter.

While some court challenges continue, the July 1, 2024 increase went into effect as planned for almost every FLSA-covered employer, and the future increases are still scheduled to go into effect. As such, many employers have recently reviewed which employees they consider exempt and, in light of the new rule, how much they are paid. But significantly, federal law does not always provide the only salary threshold that employers must meet to properly classify employees as exempt.

## **States with *higher* salary thresholds than July 1, 2024 DOL rule**

Several states have enacted laws or regulations that presently require employers to pay higher salaries than the July 1, 2024 DOL rule (\$844 per week or \$43,888 per year) in order for an executive, administrative, or professional exemption applies. These states include:

<b>State</b>	<b>Annual Salary<sup>1</sup></b>	<b>Weekly Salary</b>
Alaska	\$48,796.80	\$938.40
California*	\$66,560.00	\$1,280.00
Colorado	\$55,000.00	\$1,057.69
New York City and Nassau, Suffolk & Westchester Counties, New York	\$62,400.00	\$1,200.00
New York (remainder of state)**	\$58,458.40	\$1,124.20
Washington State	\$67,724.80	\$1,302.40

\*California has industry-specific salary thresholds for exempt employees in the health care and fast food industries, and for computer software employees if paid on a salary basis rather than hourly. The amounts listed above are the general standards for exempt employees in California.

**\*\*New York State's salary threshold requirement applies to the executive and administrative exemptions, but New York's exemption test for professional exempt employees does not contain a pay component. These employees must, however, satisfy federal overtime exemption requirements.**

### **States that follow the FLSA and DOL regulations for white-collar exemptions**

States take varying approaches to minimum wage and overtime requirements and, as a result, the extent to which the FLSA's minimum threshold amounts control exemption decisions differ by state. In the several states that explicitly codify and adopt the FLSA and DOL regulations regarding overtime exemptions, employers are required to meet only the federal standards discussed above. Relatedly, some states do not have their own overtime and minimum wage requirements, so therefore the FLSA and DOL regulations are possibly the only applicable requirements.

Several more states have their own minimum wage and overtime requirements, which may vary from and even exceed the federal standards. In those states, such as those listed above, employers will need to determine how the state and local laws apply, which standards are most favorable to employees, and how those standards can be satisfied. In these jurisdictions, meeting the federal threshold is not necessarily sufficient.

### **Conclusion**

While the DOL's new salary threshold regarding the FLSA's executive, administrative, and professional exemptions has received the most attention, employers need to know what state minimum wage and overtime laws might apply to their employees. Specifically, employers need to know whether they are covered by the FLSA to begin with and whether they have employees working in a state with a higher salary threshold than even the DOL's July 1, 2024 rule. Additionally, in the at-issue jurisdiction, employers need to determine whether state law mirrors the FLSA when it comes to paying an employee on a salary or fee basis, along with whether and how the duties test follows or deviates from federal law. If so, employers will need to comply with the more-friendly-to-employee requirement to ensure exempt status remains.

<sup>1</sup> The annual-equivalent salaries in this chart are based on state labor department guidance regarding how to calculate an annual-equivalent amount or, in the absence of such guidance, are calculated by multiplying the weekly salary by 52 weeks.

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