



To Reclassify or Not To Reclassify?

That Is the Question Facing Many Employers Adjusting to the 2020 Overtime Rule Under the FLSA

After the roller coaster ride surrounding the Obama Administration's proposed 2016 expansion of the DOL's overtime rules under the Fair Labor Standards Act ("FLSA"), we finally have a new set of regulations that are slated to take effect on January 1, 2020. These regulations define which executive, administrative and professional employees – otherwise known as "white-collar" workers – are exempt from overtime provisions of the FLSA (the "2020 Overtime Rule").

Under the current law, employees with a salary below \$455 per week (or \$23,660 annually) must be paid overtime if they work more than 40 hours per week. This salary level was set in 2004. The 2020 Overtime Rule will increase the salary level to \$684 per week (or \$35,568 per year). As with the 2004 rule, employees not only need to meet the salary threshold in order to be exempt, but they must also perform certain duties, such as those involved with the management of the business, among others.

Unlike the 2016 proposed regulations, the salary levels in the 2020 Overtime Rule will not automatically increase every three years. Instead, the DOL affirmed its intent to update the earnings threshold more regularly through notice-and-comment rule making.

As a result of these changes to the overtime rules, an estimated 1.3 million workers will lose their exempt status on January 1, 2020, and will be eligible for overtime pay. Employers have less than two months to determine how to handle any impacted employees. For example, should an employee's salary be increased above the \$684 per week level to retain exempt status? If not, what procedures can the employer put in place to limit overtime and prevent labor costs from skyrocketing? These, and other questions, should be addressed in advance of the new year.

Key Takeaways for Employers

- The DOL's 2004 overtime rules will no longer be effective after December 31, 2019.

- For employees to be exempt from overtime under the “white collar” exemptions of the 2020 Overtime Rule, they must meet a significantly higher salary threshold and perform specific duties.
- Employers are encouraged to assess whether re-classification of certain employees is necessary to maintain exempt status or whether measures should be put in place to limit overtime and control overtime costs.

Please be advised that this alert is not designed to address all of the provisions of the 2020 Overtime Rule. If you have any questions about this Alert, the remaining provisions of the 2020 Overtime Rule, or if you would like assistance in assessing

whether your workforce should be reclassified, please contact the author listed below or the Aronberg Goldgehn attorney with whom you work.

[Amy M. Gibson](#)

312.755.3154

agibson@agdglaw.com