

Employers Take Note: Court Vacates Salary Threshold Increases for Exempt Employees



Client Alert

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Last month, a federal district court in Texas invalidated the U.S. Department of Labor's ("DOL") April 2024 Final Rule ("Final Rule"), which would have raised salary thresholds for Executive, Administrative, and Professional ("EAP") exemptions under the Fair Labor Standards Act ("FLSA") in both July of 2024 and January of 2025. Importantly, after finding that the DOL had exceeded its rulemaking authority, the Eastern District of Texas Judge vacated the Final Rule nationwide. As a result, the pre-July 2024 salary thresholds for the EAP exemptions of \$684 per week, or \$35,568 per year, have now been reinstated, and the salary threshold for Highly Compensated Employees returned to \$107,432 annually.

Background: The FLSA requires that most employees receive overtime pay for all hours worked over 40 hours in a workweek; however, the law creates exemptions from this requirement for certain types of employees. To qualify for an exemption, a company's employees must satisfy both the FLSA's salary requirement and duties test. The Final Rule did not impact the duties test.

Prior to July 1, 2024, in order to satisfy the EAP's salary threshold, an employee had to be paid at least \$684 per week, or \$35,568 per year. However, the Final Rule mandated that the minimum salary requirements increase to \$844 per week, or \$43,888 annually, starting on July 1, 2024, and then, the salary levels would once again increase on January 1, 2025, to \$1,128 per week, or \$58,656 annually. The Final Rule also increased the total annual compensation threshold for Highly Compensated Employees from \$107,432 to \$132,964 on July 1, 2024, and to \$151,164 on January 1, 2025. Finally, the Final Rule provided for automatic updates every three years to reflect current earnings data, beginning July 1, 2027.

Ruling: In his lengthy decision, District Judge Sean D. Jordan of the Eastern District of Texas held that the Final Rule exceeded the DOL's rule-making authority by prioritizing salary over duties in determining exemptions, thereby undermining the FLSA's legislative framework. Specifically, the Judge found that "the Department's 2024 Rule contemplates sweeping changes to the EAP Exemption's regulatory framework, designed on their face to effectively displace the FLSA's duties test with a predominate—if not exclusive—salary-level test." Judge Jordan concluded that, "because the EAP Exemption requires that an employee's status turn on duties—not salary—and because the 2024 Rule's changes make salary predominate over duties for millions of employees, the changes exceed the Department's authority to define and delimit the relevant terms." Accordingly, Judge Jordan vacated the Rule in its entirety and made it clear his order had an immediate nationwide effect.

Effect: What does this mean for employers? *It depends.* If employers were anticipating making changes to employee classifications in anticipation of the significant increases proposed for January, they could choose to stand down and not implement those changes. However, if changes were already made in July based upon the initial increase, reversing those changes may be difficult for an employee to accept as it would amount to a salary decrease for an employee's performance of the same job – while legal to implement, it may impact employee morale and retention. Keep in mind however, that the Court's ruling invalidating the FLSA's Final Rule has no impact on any state law salary requirements for exempt employees. As a result, in states that maintain a higher salary test threshold for exempt employees than what the FLSA may require, employers must still comply with state law compensation requirements.

The Court's acknowledgment that the duties test is the ultimate test of exempt status should be an important reminder to employers that the classification of positions as exempt or non-exempt should rely heavily on the work the employee actually performs and not simply on what the employee is paid. To this end, employers should consult with counsel to review and analyze their current classification of exempt employees to ensure employees are properly classified.

Finally, the DOL could choose to appeal this ruling, so employers should stay tuned. Keep in mind that the landscape may certainly change under the new, incoming Administration.

Should you have any questions regarding the above or wish to discuss auditing your current employee classifications, please contact Bari L. Goldstein at bgoldstein@lippes.com, Kenneth M. Rehns at krehns@lippes.com, or another member of the Firm's Labor and Employment Practice Team.