

New Overtime Regulations Affect Business and Nonprofits Alike

On May 18, 2016, President Obama and Secretary Perez of the U. S. Department of Labor issued a final rule updating federal overtime regulations. The updated rules are expected to extend overtime pay protections to over 4 million workers. This long-anticipated move¹ is part of the President's commitment to ensuring working Americans are better compensated fairly for their work.

Key Provisions of the Final Rule

The Final Rule focuses primarily on updating the salary and compensation levels needed for employees classified under the Executive, Administrative, or Professional worker exemption categories to remain exempt from overtime. 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.

Effective Date 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 December 1, 2016. Future automatic updates to those thresholds will occur every three years, beginning on January 1, 2020.

¹ In 2014, President Obama signed a Presidential Memorandum directing the Department to update the regulations defining which white collar workers are protected by the FLSA's minimum wage and overtime standards. The memorandum instructed the Department to look for ways to modernize and simplify the regulations while ensuring that the FLSA's intended overtime protections are fully implemented. The Department published a Notice of Proposed Rulemaking (NPRM) in the Federal Register on July 6, 2015 ([80 FR 38515](https://www.federalregister.gov/documents/2015/07/06/2015-13515)) and invited interested parties to submit written comments on the proposed rule at www.regulations.gov by September 4, 2015. The Department received over 270,000 comments in response to the NPRM from a variety of interested stakeholders.

Impact

This represents a significant change in the rules associated with determining which employees, normally exempt from overtime, must now be treated as eligible for such benefits. The new regulations affect both for-profit and non-profit businesses and entities alike. There are no specific exemptions in place for religious organizations and/or churches, so come this December your church or ministry will be required to be in full compliance with the new regulations.

How Do I Figure Out How These Changes Will Actually Affect My Ministry?

Thanks to our friends at the Evangelical Council for Financial Accountability (ECFA) CMA is able to offer a webinar to that explains the details of the new regulations. This webinar is free to current members and for a nominal fee to non-members. The webinar and materials can be accessed from the CMA bookstore.

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