

## What You Need to Know about the Department of Labor's New Overtime Rule

The Department of Labor (DOL) published its [final rule](#) on September 27, 2019, increasing the threshold used to determine the exempt status of white-collar employees under the minimum wage and overtime rules of the Fair Labor Standards Act. Below is a summary of key provisions, as well as FLSA exemptions that impact the news industry.

- The final rule increases the current salary and compensation threshold for Executive, Administrative and Professional workers to be exempt from overtime, from the current level of \$23,660 per year (\$455/week) to \$35,568 per year (\$684/week).
- The new threshold is pegged to the 20<sup>th</sup> percentile of full-time wage earners in the lowest income region of the country (identified as the South).
- The minimum total annual compensation for highly compensated employees increases from \$100,000 annually to \$107,432 annually.
- Employers can count nondiscretionary bonuses, incentives and commissions toward up to 10 percent of the required salary level for the standard exemption. The employer has one pay period to make up for any shortfall in achieving the 10 percent threshold.
- The final rule makes no changes to the duties test.
- The final rule does not implement automatic updates in the salary threshold.
- The final rule does not alter a statutory exemption excluding employees of small newspapers from the FLSA overtime and minimum wage requirements. This exemption applies to “any employee employed in connection with the publication of any weekly, semiweekly, or daily newspaper with a circulation of less than four thousand.”
- Journalists are exempt from overtime and minimum wage requirements if they qualify as “creative professionals.” The Wage and Hour Division of the Department of Labor has released [guidance](#) stating that journalists are “creative professionals” if their “primary duty is to conduct investigative interviews; analyze or interpret public events; to write editorial, opinion columns or other commentary.” According to the Division, journalists are not likely to be considered “creative professionals” if they “rewrite press releases or write standard recounts of public information by gathering facts on routine community events.” In short, the less creativity and originality involved in the reporting and the more control exercised by the employer, the less likely journalists are to be considered exempt.
- The final rule is effective on January 1, 2020.

For more information visit the [U.S. Department of Labor Wage and Hour Division, Final Rule: Overtime Update](#).