

Final Overtime Rule Issued by U.S. Department of Labor



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On May 18, 2016, the Department of Labor released its [Final Rule](#) regarding the salary level used to determine whether Executive, Administrative and Professional employees are properly classified as exempt from overtime under the Fair Labor Standards Act. Effective December 1, 2016, the new minimum salary level for federal overtime exemptions will increase from \$23,660 to \$47,476 per year. Future automatic updates to this threshold will occur every three years, beginning on January 1, 2020. The Final Rule does not change any of the existing job duty requirements to qualify for exemption.

Under California law, the minimum salary requirement for exempt employees is based on two times the state minimum wage. The minimum salary is currently set at \$41,600 per year and will reset to \$43,680 per year when the California minimum wage increases to \$10.50 per hour on January 1, 2017.

The new federal Final Rule allows employers to count nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10 percent of the new standard salary level. However, state law does not. Therefore, effective January 1, 2017, California employers must pay a base salary of at least \$43,680 plus nondiscretionary bonuses, incentives, and commissions of at least \$3,796 to meet the exemption salary threshold of both laws. Employees who do not earn nondiscretionary incentive pay must be paid \$47,476 annually to satisfy state and federal law.

The Department of Labor has also prepared a list of [Frequently Asked Questions and responses which may be found here](#).

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