

**NEWS ALERT****LABOR & EMPLOYMENT****Let's Try That Again: DOL Proposes \$35k Salary Threshold for Overtime Exemption**

By Matthew K. Curtin and Salvatore G. Gangemi | March 8, 2019

At long last, the federal Department of Labor has issued its widely anticipated second proposal to raise the minimum salary threshold for employees to qualify for various white collar exemptions under the Fair Labor Standards Act. Following a failed attempt by the Obama-era DOL to set a salary threshold of \$47,476, the DOL is setting its sights lower this time around with a proposed \$35,308 salary threshold.

Currently, the salary threshold for employees to qualify for a white collar exemption is set at \$23,660 annually under federal law. The DOL anticipates that raising the salary threshold to approximately \$35k will make more than a million employees non-exempt, and therefore eligible for overtime compensation. This is considerably less than the 4 million people that the Obama-era rule would have rendered non-exempt from the overtime rules.

Although the DOL's proposed rule affects Connecticut and Massachusetts employers, it has no effect on New York employers, which are already subject to a higher salary threshold than the proposed federal rule and varies depending upon the employer's location in the state. In New York City, the salary threshold for applying the white-collar exemption is \$1,125.00 per week. In Nassau, Suffolk and Westchester counties, the salary threshold is \$975 per week, and in the remainder of the state it is \$885 per week. [See Wage/Hour Alert: New York State Increases Overtime Salary Threshold for White Collar Exemptions and New Minimum Wage Takes Effect \(1/3/2017\)](#)

The DOL's prior attempt to raise the salary threshold to \$47,476 was blocked by a federal court judge only days before it was set to take effect back in 2016. [See Wage/Hour Alert: Court Issues Nationwide Block of Overtime Exemption Regulations \(11/28/2016\)](#). Since then, employers and employees alike have anxiously awaited the DOL's second bite at the apple.

Importantly, the DOL's proposed salary threshold is just that – a proposal. The proposed rule will now be subject to a 60-day public comment period, and as we saw with the prior proposal, there is no guarantee that this proposal will become law. That being said, employers should start planning now for what may eventually be the new salary threshold. This is a developing story, so stay tuned for updates.

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