# Department of Labor Proposes New Salary Threshold For Overtime Exemption

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On March 7, the U.S. Department of Labor announced a proposed rule to update the salary threshold required to qualify for overtime exempt status. The proposal would set the minimum salary level to $679 per week (equivalent to $35,308 per year). This proposal comes more than one year after a federal judge issued an injunction which stopped a previous DOL proposal on the salary threshold from taking effect. That prior rule, issued by the Obama administration DOL, would have raised the minimum salary needed to qualify as exempt to $913 per week ($47,476 per year). The newly-proposed salary level is roughly midway between the $913 per week proposal from the Obama administration and the current exempt salary threshold of $455 per week which has been in effect since 2004. The proposal would also raise the minimum for the "highly compensated employee" exemption from $100,000 to $147,414 per year.

As with the prior proposal to raise the threshold, there likely will be litigation challenging the move. The DOL announcement states that the same methodology was used to arrive at the $35,308 proposal as was used in establishing the threshold in 2004. The thought seems to be that using an established procedure might make the proposal less prone to challenge. However, employee rights groups have argued that the proposed increase does not go far enough and there is not sufficient justification for backing away from the $47,000 threshold. On the other hand, some small business groups are concerned that even a $35,000 threshold would require its members to cut jobs in order to meet a higher overtime burden.

Now that a target number has been announced, employers can begin thinking about who in the workforce might be impacted and what strategies might be used to respond to a particular employee's potential change in exempt status. Employers, however, need not rush to make changes in their pay structure. The $35,308 threshold is only a proposed rule. The public will have 60 days to comment on the proposal. After consideration of those comments, the DOL would then issue a final rule, which may differ from the current proposal. There then likely would be a grace period before any final rule would become effective, to give employers an opportunity to adjust pay practices accordingly.