

# Increased Salary Thresholds for Exempt Employees Under the Fair Labor Standards Act Now Effective

AUGUST 8, 2024

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As we previously reported, the Department of Labor (“DOL”) issued a Final Rule adjusting the minimum annual salary that an employee must be paid to qualify for the executive, administrative, and professional (“EAP”) exemptions and the highly compensated employee (“HCE”) exemption under the Fair Labor Standards Act (“FLSA”).

## New Minimum Salaries Now Effective

The new minimum salaries took effect on July 1, 2024. Currently, employees classified as exempt under the EAP exemptions must be paid at least \$844 per week (or \$43,888 per year), a 23% increase from the previous \$684 per week (or \$35,568 per year) threshold. Similarly, employees classified as exempt under the HCE exemption must be paid at least \$132,964 per year, also a 23% increase from the previous \$107,432 per year threshold. Of that \$132,964, at least \$844 per week must be paid to employees on a salary basis.

Effective January 1, 2025, the thresholds will increase once again. The new thresholds will be \$1,128 per week (or \$58,656 per year) for the EAP exemptions and \$151,164 per year for the HCE exemption. Thresholds will subsequently be increased every three years beginning on July 1, 2027, calculated using methodologies then in effect.

## Legal Challenges in Texas

As expected, the Final Rule is facing several legal challenges. Most notably, on June 28, 2024, a federal judge in the Eastern District of Texas enjoined the DOL from enforcing the Final Rule. However, while the State of Texas sought a nationwide injunction, the federal judge only barred the DOL from enforcing the Final Rule against the State of Texas as an employer (so not all employers in the State of Texas). In addition to the State of Texas, numerous business groups, spearheaded by the Plano Chamber of Commerce, filed a similar lawsuit also in the Eastern District of Texas. These two cases have since been consolidated and the parties are currently briefing cross-motions for summary judgment through mid-September. The Final Rule is also being challenged by software company Flint Avenue LLC in the Northern District of Texas, with summary judgment briefing extending through the beginning of October.

## What Employers Should Do

Unfortunately, given the narrow scope of the injunction, the DOL can still enforce the Final Rule against all other employers covered by the FLSA nationwide—including private employers in Texas. Thus, at least for now, employers must comply with the new minimum salary threshold by ensuring

that all employees classified as exempt under the EAP exemptions or the HCE exemption are paid above the applicable threshold, or reclassify these individuals as non-exempt.

**We will continue to provide updates as legal challenges progress. For more information, please contact a member of Benesch's Labor & Employment Practice Group.**

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