

New York State Department of Labor Proposes Increases to Overtime Exempt Salary Threshold

Article By:

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By now, most employers have heard about the changes to the overtime regulations that will increase the salary threshold for overtime exemptions under the federal ***Fair Labor Standards Act (“FLSA”)*** to \$913 per week as of December 1, 2016. Recently, the ***New York State Department of Labor (“NYSDOL”)*** proposed similar regulations which would incrementally increase the salary threshold for the overtime exempt classification under New York State law as well. Depending on the size and location of the employer within New York State, the proposed incremental increases would reach up to as much as \$1,125.00 per week over the next few years.

More specifically, the proposed salary thresholds will increase more rapidly for “large employers” ? those with eleven (11) or more employees ? than for “small employers” ? those with ten (10) or fewer employees. In addition, salary thresholds will increase more rapidly in New York City than in surrounding and upstate counties. The proposed rule would increase salary thresholds as follows:

| | New York City: Large Employer (11 or more) | New York City: Small Employer (10 or fewer) | Nassau, Suffolk, Westchester Counties | Other New York counties |
|----------------|--|---|---------------------------------------|-------------------------|
| Effective Date | Overtime Exempt Salary Threshold (salary/week) | | | |
| 12/31/16 | \$825.00 | \$787.00 | \$750.00 | \$727.50 |
| 12/31/17 | \$975.00 | \$900.00 | \$825.00 | \$780.00 |
| 12/31/18 | \$1,125.00 | \$1,012.50 | \$900.00 | \$832.00 |
| 12/31/19 | | \$1,125.00 | \$975.00 | \$885.00 |
| 12/31/20 | | | \$1,050.00 | \$937.50 |
| 12/31/21 | | | \$1,125.00 | |

If the proposed regulations are enacted, employers working in multiple locations in New York State may have to apply different salary thresholds depending on their employees’ location within the state. For employers doing business in New York City and Nassau, Suffolk, and Westchester Counties, the salary threshold may be higher under New York State law than under the FLSA. For example, if the incremental increases outlined above are implemented without change, the salary threshold for New York City employers with 11 or more employees will be \$1,125 per week as of December 31, 2018, an amount that will considerably exceed the \$913 per week salary threshold under the FLSA.

These proposed regulations are still open for public comment until December 3, 2016 and employers who wish to comment may do so either in writing or by email to the NYSDOL. In particular, comments may be sent by mail to Michael Paglialonga, New York State Department of Labor, Building 12, Room 509, State Campus, Albany N.Y. 12240 or by email to regulations@labor.ny.gov.

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