



COMPLIANCE BULLETIN

Overtime Rule Blocked by Federal Court

HIGHLIGHTS

- A federal court has ruled that the overtime rule will not take effect on Dec. 1 as scheduled.
- Congress or the Trump administration may take action in the future to change or block the overtime rule.
- Employers should watch for future developments on the overtime exemption rules.

IMPORTANT DATES

Nov. 22, 2016

A federal judge issued a preliminary injunction blocking enforcement of the overtime rule.

Dec. 1, 2016

The final rule was scheduled to become effective.

On Nov. 22, 2016, a federal judge in Texas issued a [preliminary injunction](#), halting the enforcement of the Department of Labor's (DOL) new [overtime rule](#) until further notice. The rule, which was set to take effect on Dec. 1, 2016, would have increased the salary threshold for the "white collar overtime exemptions" to \$47,476 per year.

The judge's ruling gives employers across the country a reprieve from having to raise salaries for exempt employees to the new threshold or pay them overtime.

However, an appeal of the ruling is possible. The DOL said in a statement that it was reviewing the court's order and considering any next steps.

ACTION STEPS

Employers should continue to watch for news of developments related to the overtime rule, as some uncertainty remains. Until a final decision is reached in the case, employers can rely on existing overtime exemption rules.

Employers that have already made adjustments to comply with the new rule may find it difficult to reverse any changes. However, employers may decide to postpone any changes that have not yet been made.

Hays Companies will continue to monitor these developments and provide updates as necessary.

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DOL Rule on White Collar Exemptions

The Fair Labor Standards Act (FLSA) establishes minimum wage and overtime pay protections for many workers in the United States. However, the FLSA exempts certain workers, such as white collar employees, from these protections. The white collar exemptions apply to certain executive, administrative, professional, outside sales, computer and highly compensated employees.

To qualify for the executive, administrative or professional exemption, an employee must meet a **salary basis test**, a **salary level test** and a **duties test**. The DOL's overtime rule would have increased the required salary level from \$455 per week (\$23,660 per year) to \$913 per week (\$47,476 per year). Highly compensated employees must also satisfy the salary basis and duties tests to be considered exempt, but a different salary level applies to them. The DOL rule would have increased the required salary level for highly compensated employees from \$100,000 per year to \$134,004 per year.

Federal Court Cases

In September, a coalition of [21 states](#) and [a number of business groups](#) filed two separate lawsuits challenging the new rule. These two lawsuits were combined in October. On Nov. 16, 2016, the court held a hearing on whether to grant an emergency injunction blocking implementation of the rule. The judge presiding over the case issued his written ruling granting the injunction on Nov. 22, 2016.

The DOL had requested that any injunction apply only to the states involved in the lawsuit. However, the judge rejected this request and specifically ruled that the injunction applies to employers nationwide. Therefore, the DOL will not be able to enforce the increased salary level against any employer unless the court orders otherwise.

The Future of the Overtime Rule

Supporters of the rule remain committed to what they describe as fair increases in the overtime exemption salary threshold. However, the DOL may be facing an uphill battle in implementing changes to the overtime exemptions.

In his written ruling, the judge suggested that he would side with the parties challenging the rule when resolving the case. He stated that, in issuing the rule, the DOL "exceeds its delegated authority and ignores Congress's intent by raising the minimum salary threshold such that it supplants the duties test." However, further steps need to be taken in the court process before the rule is permanently struck down.

Congress may also take action to stop implementation of the rule. In September, the U.S. House of Representatives passed [H.R. 6094](#), which would delay implementation of the final rule until June 1, 2017. The bill would have to be passed by the Senate and approved by the president before it becomes law. President Obama had threatened to veto the bill, but any legislation could fare differently once President-elect Trump takes office.

It is also possible that President-elect Trump could take executive action to block the rule, but it is not clear at this time what approach he would take to change or undo the rule. If the court strikes down the rule, further congressional or executive action may be unnecessary.

Other Issues for Employers

Although the changes to the overtime exemptions may not take effect for some time, if ever, employers must continue to comply with current regulations. In preparing for the rule change, many employers have discovered that employees may have been misclassified, which is an issue that must be addressed to avoid violating the current FLSA regulations. Please contact Hays Companies if you need additional information on how to properly classify employees under the current exemption rules.