



## How will the new federal earnings threshold impact our company?

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**QUESTION:** I heard that there might be some changes coming to overtime rules and I'm not sure what that's about. I have one salaried employee who is currently making \$800/week and I'm wondering if this rule will affect her. Can you help clarify so I can make sure we are complying with the law?

**ANSWER:** The federal Fair Labor Standards Act (FLSA) outlines specific rules for classifying employees as exempt versus non-exempt (or salary vs. hourly in layman's terms). Employees can only be classified as salary/exempt if they meet certain criteria related to job duties and are paid a salary that meets the minimum earning threshold, which is currently set at \$684/week, or \$35,568 annually.

The Department of Labor has recently updated its rules on the earning threshold for the salary/exempt classification. Effective July 1, 2024, the new minimum earning threshold will increase to \$844 per week or \$43,888 annually. This amount is set to increase again on January 1, 2025, to \$1128 per week or \$58,656 annually and automatically adjust every three years thereafter beginning in July 2027. This means an employee's pay has to be more than this amount AND their work responsibilities have to meet the criteria outlined in FLSA duties tests in order to be classified as exempt from overtime pay and paid on a salary basis. Employees who do not meet both the earning threshold AND the duties criteria are considered non-exempt and are eligible for overtime pay. These employees are typically paid hourly.

This change will affect your current employee earning a salary of \$800/week and may impact other positions that you currently have classified as exempt/salary. For the specific employee you cited in your question, you will need to increase her pay to keep her exemption status or reclassify her as non-exempt as of July 1, 2024. A reclassification to non-exempt would make her eligible for overtime pay if she works more than 40 hours in a week. The decision on FLSA status and potential for additional overtime may have an impact on your overall budget.

One creative option for current salaried employees earning less than the new earning threshold is to use a hybrid approach. Just because an employee is classified or reclassified as non-exempt doesn't mean that you can't still pay them on a salary basis. The federal rules allow employers to pay their non-exempt employees a weekly salary as long as it is more than minimum wage for the total number of hours worked. However, these salary/non-exempt employees must also be paid overtime wages for any hours worked in excess of 40 in a given week. If your current salaried employee doesn't typically work more than 40 hours/week, this salary/non-exempt hybrid approach becomes a viable solution. It retains her salary mode of pay and her currently week rate of \$800/week, without exposing you to excessive overtime costs; making the status change from exempt to non-exempt less painful for both of you.

Each situation is unique, so we recommend doing some internal assessments and planning to determine how best to prepare for this upcoming change. Will you have to adjust scheduling to ensure the newly

classified non-exempt staff are not working more than 40 hours in a week? Will you utilize the salary pay option for non-exempt employees or will you choose to switch their mode of pay to hourly? Will you need to increase your payroll budget to accommodate increases in salary rates or overtime costs? Once you have a plan, communicate it with the affected staff and their supervisors and outline any changes in procedures related to scheduling, approval processes for overtime, etc. If you have questions about your approach, contact a human resource or legal professional.