Step One of the DOL Final Rule Increasing FLSA Exemption Salary Thresholds Is Now in Effect

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As our prior legal alert detailed, the Wage and Hour Division of the Department of Labor on April 23, 2024 announced its Final Rule increasing salary thresholds for the Executive, Administrative, and Professional ("EAP") exemptions from overtime pay requirements under the Fair Labor Standards Act ("FLSA"), as well as for the Highly Compensated Employee ("HCE") exemption. The Final Rule called for the following increases, effective July 1, 2024, and January 1, 2025. Besides the minimum salary requirements, each exemption includes a duties test, which remain unchanged. As a reminder, the presumption is that all employees are non-exempt, and the employer bears the burden of proof to support any claimed exemption.

Exemption	Current Threshold	July 1, 2024 Threshold	January 1, 2025 Threshold
EAP	$35,568	$43,888	$58,656
HCE	$107,432	$132,964	$151,164

The first step of the increased salary thresholds is now in effect, at least for all private employers. As expected, several lawsuits were filed trying to block the Final Rule. On June 28, 2024, one Texas federal judge issued an injunction, but only as applied to the State of Texas as an employer. Other lawsuits continue to proceed and could lead to broader injunctions, but the courts may not rule until later in 2024, before the second step increases would go into effect. Additionally, a lawsuit challenging whether the DOL had authority to impose even the prior minimum salary requirements is on appeal from yet another Texas court before the Fifth Circuit Court of Appeals. The bottom line is that the increased July 1 salary thresholds now apply.

Employers, in consultation with their legal counsel, should use this legal development as an opportunity to review their exempt positions and other wage and hour policies, and make any needed changes, considering legal, business, and employee relations concerns. Employers should also continue to plan for the announced, more significant increases currently slated to go into effect on January 1, 2025, as listed above.

We Can Help

Please feel free to contact Brad Harvey or another member of our Labor and Employment Department should you have any questions or need assistance.