

FOCUS ON NEW YORK

New York State Overtime Exemption Threshold Increases Despite Federal Uncertainty

On November 22, 2016, a federal district court in Texas issued a preliminary injunction blocking the Department of Labor’s Overtime Rule from taking effect. The rule would have increased the salary threshold necessary to classify employees as exempt and resulted in more employees qualifying for overtime under the Fair Labor Standards Act. The impact of the injunction was immediate and widespread, with employers struggling to determine the impact of the order and how to respond; many employers had already established new overtime policies to comply with the impending Overtime Rule.

The New York State Department of Labor also issued new regulations increasing the salary threshold for the state overtime exemption. While the injunction created uncertainty regarding the federal overtime exemption threshold, it had no impact on states’ overtime laws. Taking effect December 31, 2016, the New York amendments increased the salary threshold as shown in the chart below, with different areas of the state subject to different threshold amounts and additional increases forthcoming in the next five years. The amounts listed below indicate the minimum weekly salary needed to qualify as exempt.

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	NEW YORK CITY (10 OR FEWER EMPLOYEES)	NEW YORK CITY (11 OR MORE EMPLOYEES)	NASSAU, SUFFOLK, & WESTCHESTER COUNTIES	REMAINDER OF THE STATE
12/31/16	\$787.50	\$825.00	\$750.00	\$727.50
12/31/17	\$900.00	\$975.00	\$825.00	\$780.00
12/31/18	\$1,012.50	\$1,125.00	\$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	

The New York State Department of Labor clarified that the location of the employee determines the threshold amount for employers transacting business across the state. The New York Department of Labor further clarified that if an employee works in multiple locations within the state, the employee must meet the exemption threshold for the location worked at each week. For example, if an

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employee typically works for a large employer in Suffolk County, but is transferred for a week to New York City, that employee must either be paid the higher New York City salary for the week or lose the exemption.

Under federal law, the salary threshold is an element for the executive, administrative and professional exemptions. However, under New York state law, there is no salary threshold for the professional exemption. Thus, employers relying on the professional exemption in New York need not make any changes to comply with the amended New York rule.