

# Insights

## DOL Issues Proposed New Overtime Rule

---

March 7, 2019

By: Amy J. Adolay

The U.S. Department of Labor (DOL) issued a Notice of Proposed Rulemaking yesterday with respect to current overtime regulations. The status of the DOL's overtime regulations has been in limbo since 2016, when a final rule was issued changing the salary requirements for the categories of employees who are considered exempt from minimum wage and overtime rules. The enforcement of the 2016 final rule was halted by the U.S. Court of Appeals for the Fifth Circuit in November of 2016, which means the DOL has continued to enforce the standards from 2004, standards that are now 15 years old.

The DOL's proposed changes to the overtime regulations could change the status of one million U.S. workers from exempt to non-exempt, which means they would be entitled to minimum wage and overtime pay for all hours worked over 40 in a workweek. This potential impact is due to an increase in the salary level to qualify for exempt status from \$455 per week to \$679 per week. Unlike the 2016 rule, the new rule would not include automatic increases over time to the minimum salary level. The rule does propose increasing the highly compensated employee salary to \$147,414 per year instead of the current \$100,000 per year.

It is important to note that the proposed rule does not include any changes to the duties tests that are applied to the exempt categories of employees, which include the professional, executive, and administrative exemptions, as well as other less common exempt categories. Instead, the DOL states in the proposed rule that it intends to go through notice and comment rulemaking every four years to determine appropriate salary level increases. After the proposed rule is published in the Federal Register, the public will have 60 days to comment.

A link to the proposed rule can be found by clicking [here](#).