

Electronic Alert

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Washington Radically Expands Eligibility for Overtime

By Sarah Hale & Heather Fossity

On December 11, 2019, the Washington State Department of Labor and Industries (L&I) announced significant changes to the eligibility for employees to be classified as exempt under the white collar exemptions, as well as exemptions for outside salespeople and computer professionals across all industries in Washington. The changes go into effect on July 1, 2020, with phased implementation through January 2028.

L&I now uses a multiplier of the state minimum wage to calculate the minimum salary an employee must make to be exempt from overtime (and other protections under Washington's Minimum Wage Act). Beginning July 1, 2020, the state minimum salary threshold for an employee to be classified as exempt will increase to \$675 per week (\$35,100 per year) for all businesses. The state salary threshold will increase incrementally until 2028, at which point it will be approximately \$1,603 per week (\$83,356 per year).

Recall, starting January 1, 2020, the federal salary threshold will be \$684 per week (\$35,568 per year), slightly above the Washington threshold. Therefore, since the level most favorable to employees applies, employers must look to the federal threshold to determine exempt status until the Washington threshold increases above the federal threshold in 2021.

The rules also update the job duties tests that determine if an employee can be exempt from overtime. This includes tests to determine whether an employee is performing management-level or professional duties to classify as exempt, more closely aligning the requirements to the federal standards.

Washington employers must carefully consider both the increasing salary threshold as well as the modified job duties tests to determine whether employees are properly classified. In many cases, this will mean employees who were not previously entitled to overtime pay and other protections will be covered under the new rules. L&I estimates the changes will restore overtime eligibility to 259,000 workers by 2028. Otherwise, employers may consider increasing employees' salaries to classify employees as exempt.

For questions about overtime compliance, contact Sarah Hale at 503-276-2111 or shale@barran.com, or Heather Fossity at 503-276-2151 or hfoffity@barran.com. For further discussion of overtime eligibility and other emerging wage and hour issues, sign up for Sarah's upcoming Food for Thought Breakfast Seminar, entitled, "Wage & Hour Compliance: Overtime Eligibility, Employee Classification, & Best Pay Practices," on Tuesday, January 14, 2019. To RSVP, please email Jessica at jimm@barran.com.