



## *Labor & Employment Client Alert*

### New Salary Threshold for FLSA Overtime Exemption

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On January 1, 2020, new salary thresholds for overtime and minimum wage exemptions will take effect for purposes of the Fair Labor Standards Act (“FLSA”). The U.S. Department of Labor [recently announced](#) the new rule after a 60-day comment period and a review by the Office of Information and Regulatory Affairs. The new “standard salary” threshold will jump to \$35,568 per year—up from the \$23,660 threshold set in 2004. The threshold for “highly-compensated” employees will see a modest increase to \$107,432 per year—up from \$100,000.

Also taking effect on January 1, 2020 is a provision that will allow employers to count annual bonuses and incentive payments toward as much as 10% of the standard salary threshold. Previously, employers could only count payments that were made at least quarterly. The Department of Labor estimates that 1.2 million employees will be impacted by these changes.

#### What Employers Should Do Now

- Between now and January 1, employers should welcome the opportunity to review existing employee classifications to verify compliance with not only the new salary-threshold, but also the existing “white collar” standards.
- Employers should focus specifically on employees who currently make between \$23,660 and \$35,568 annually.
- If an employer wants to classify an employee as “exempt” going forward, the employee must make at least \$35,568 annually.
- If an employer determines that achieving “exempt” status is no longer prudent, affected employees should be re-classified as non-exempt.

Although the Supreme Court’s decision in *Encino Motor Cars, LLC v. Navarro* remains helpful to employers with respect to the application of exemptions generally, misclassification can result in significant risk.

GableGotwals is experienced in helping employers comply with state and federal labor laws. Our team of attorneys is available to help you update and implement your company's approach to compliance. Please contact any [GableGotwals Labor & Employment attorney for assistance](#).



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