



## Complying with the Department of Labor Overtime Exemption Rule: *Know your options!*

The Department of Labor (DOL) overtime exemption rule, which increases the threshold below which executive, administrative, and professional employees are eligible for overtime for time worked over 40 hours in a workweek, becomes effective on *December 1, 2016!* Are you ready? This quick reference guide is designed to help you plan for compliance. *It is not intended to be legal advice. Please consult with an attorney familiar with wage and hour law to ensure that you continue to meet Fair Labor Standards Act and any state or local law requirements that are applicable to your situation.*

The new threshold will be **\$47,476/yr (\$913/wk) beginning on December 1, 2016**, and will adjust every three years thereafter. Here are several strategies that may be used for compliance, along with examples of calculations to determine the impact on an annual basis. The examples are based on an existing salary of \$35,000/yr (\$673/wk) and 10 hours of overtime per week (amounts rounded to the nearest dollar).

### Scenario #1: Increase existing salary to meet new threshold

#### How to calculate

$$[\text{New threshold}] - [\text{Existing salary}] = [\text{Increase amount}]$$

$$\text{Ex: } \$47,476 - \$35,000 = \$12,476$$

### Scenario #2: Pay additional overtime based on current salary

#### How to calculate

$$\text{Step 1: } [\text{Existing salary}] \div 52(\text{wks}) \div 40(\text{hrs}) = [\text{hourly rate}]$$

$$\text{Ex: } \$35,000 \div 52 \div 40 = \$16.83/\text{hr}$$

$$\text{Step 2: } [\text{OT hours worked}] \times [\text{hourly rate}] \times 1.5 = [\text{OT owed}]$$

$$\text{Ex: } 520 (\text{in a year}) \times \$16.83 \times 1.5 = \$13,127$$

### Scenario #3: Reclassify employee to an hourly rate adjusted to remain cost-neutral

#### How to calculate (this involves algebra, stay with me!)

Variable to solve for: **New hourly rate = r**

$$[\text{OT hours} \times 1.5 \times r] + [40 \times r] = [\text{Existing weekly pay}]$$

$$\text{Step 1: } (10 \times 1.5 \times r) + (40 \times r) = \$673$$

$$\text{Step 2: } (15 \times r) + (40 \times r) = \$673$$

$$\text{Step 3: } 55r = \$673$$

$$\text{Step 4: } r = \$673 \div 55$$

$$\text{Step 5: } \text{New Hourly Rate} = \$12.24$$

### Scenario #4: Restrict or forbid overtime

#### How to calculate

No calculations are necessary, but the employer should ensure that time is tracked and reported accurately.

*You may also want to consider using a fixed salary for a fixed hour workweek, or a fixed salary for a fluctuating workweek method. Because these scenarios involve additional complexity, the calculation method is not included in this guide. Additionally, not all states permit these methods, so prior to considering their use, you must consult a wage and hour attorney familiar with state and local law.*