

Ashley D. Taylor, Esquire  
Pastori | Krans, PLLC  
70 Commercial Street  
Concord, NH 03301  
603.369.4769  
[ataylor@pastorikrans.com](mailto:ataylor@pastorikrans.com)

## **NEW YEAR, NEW RULES: JANUARY 2020 FLSA NEWS BULLETIN**

The United States Department of Labor (“DOL”) announced two new significant changes to the Fair Labor Standards Act (“FLSA”) in 2019, both of which are going into effect just in time for the New Year and new decade. The first rule, which increases the salary threshold for exempt employees, went into effect on January 1<sup>st</sup>. The second rule updates the definition of “regular rate” of pay to clarify that certain employer-offered “perks” do not need to be included in how the regular rate is calculated for the purposes of calculating overtime and goes into effect on January 15<sup>th</sup>. These rule changes represent the first substantial updates to the FLSA in many years.

While the categories of white-collar exempt employees based on job duties remain unchanged by [the DOL’s September 24, 2019 rule](#), minimum salary thresholds have increased. Beginning January 1, 2020, otherwise exempt employees must make \$684.00 or more per week, annualized to \$35,568.00 per year, in order to maintain exempt status. Under this new rule, over a million additional employees will be eligible for overtime according to DOL estimates. Employers have options under the rule to ensure a smooth transition from the previous salary threshold of \$455.00 per week to the new threshold, including reclassifying employees, limiting overtime worked, and using nondiscretionary bonuses and incentive payments to satisfy up to 10% of the employee’s salary in order to reach the new minimum salary threshold. Additionally, the total annual compensation threshold for employees considered “highly compensated” is increasing to \$107,432.00; \$35,568.00 of which must be paid weekly on a salary or fee basis.

Pursuant to FLSA, employers must pay overtime for all non-exempt employees working in excess of 40 hours in a workweek. Overtime pay is 1.5 times the employee’s regular rate for hours in excess of 40. DOL’s other major final rule of 2019 clarifies that certain soft benefits offered by employers (i.e. employee perks) do not need to be included in calculation of the regular rate. Perks that may be excluded from regular rate of pay determinations include wellness programs, gym

access, tuition benefits, adoption assistance, certain bonuses, and various reimbursed expenses. For a full list of which perks may be offered without the need to factor them into an employee's regular rate of pay, [read the full final rule from the DOL here](#).

If you want to learn more about how the new rules may affect you, regardless of whether you're an employer who wants more information about how to comply with FLSA or an employee who believes your employer may be in violation of the law, call us at (603) 369-4769.

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