



## The Overtime Rule: A Much Needed Raise for Working Families

On July 6, 2015, the Department of Labor (DOL) released a proposed rule Defining and Delimiting the Exemptions for Executive Administrative Professional and Outside Sales and Computer Employees under the Fair Labor Standards Act of 1938 (FLSA).

The proposed rule provides a much-needed update to the **salary level** test that largely determines whether workers are eligible for overtime pay. The overtime salary threshold is currently \$455 per week (\$23,660 per year), which is below the 2014 poverty level of \$24,008 for a family of four. Most salaried workers who earn less than the current overtime salary threshold are automatically eligible for overtime pay for hours worked beyond 40 each week. But today, only 8 percent of the salaried workforce earns less than that amount. In contrast, in 1975, 62 percent of the workforce earned below the salary threshold. The proposed rule would significantly increase that threshold, ensuring that millions of additional workers are newly eligible for overtime and strengthening the overtime rights of workers who are currently eligible.

### Overtime Pay under Fair Labor Standards Act

- The FLSA sets national standards for wages and hours of work. The FLSA was passed, in part, to eliminate child labor, establish a national minimum wage, and curb overwork by requiring that employers pay time-and-a-half for hours worked over 40 per week. Today, the FLSA protects more than 130 million American workers.
- Under the FLSA, covered workers (including most hourly workers) who work over 40 hours per week must be paid 1.5 times their regular rate of pay for any hours worked beyond 40 in a single workweek.
- Most workers are exempt from overtime pay requirements if they are (1) salaried (the **salary basis** test), (2) paid above a certain threshold (the **salary level** test), and (3) their duties primarily involve executive, administrative, or professional duties (the **duties** test). Workers are also automatically exempt if they meet the **highly compensated employee** threshold.

### Key Provisions of the Proposed Overtime Rule

The proposed update to the overtime rule will give hardworking Americans a long overdue raise by:

- Modifying the **salary level test** by raising the minimum salary level from \$455 per week to an amount equal to the 40<sup>th</sup> percentile of weekly earnings for full-time salaried workers.
- Raising the **highly compensated employee** threshold to an amount equal to the 90<sup>th</sup> percentile of all full-time salaried workers.
- Providing automatic annual updates to the salary and compensation levels in both the **salary level test** and **highly compensated employee** threshold.