



CAMPBELL DURRANT BEATTY
PALOMBO & MILLER, P.C.

Public Sector, Labor and Employment Law

535 Smithfield Street, Suite 700
Pittsburgh, PA 15222
412-395-1280

One Belmont Avenue, Suite 605
Bala Cynwyd, PA 19004
610-227-2591

Department of Labor Proposes \$35,000 “Salary Basis” Threshold for Overtime Eligibility

By: Gretchen K. Love, Esquire and Bradley J. Betack, Esquire

In a highly anticipated announcement, the Department of Labor has issued a proposed rule expanding the number of workers eligible for overtime pay.

The proposed rule increases the salary threshold for exempt employees under the Fair Labor Standards Act (“FLSA”) to \$35,308 a year (\$679 per week), up from the current level of \$23,660 (\$455 per week), which has been in effect since 2004. The rule change would mean that employees with an annual salary below \$35,308 must be paid overtime, if they work more than 40 hours in a week, regardless of the nature of the work performed. The proposed threshold of \$35,308 would expand overtime eligibility to approximately 1 million additional employees, according to the Trump Administration.

While the Trump Administration’s proposed overtime rule expands eligibility, it covers fewer employees than the Obama Administration’s proposed rule which would have increased the salary level to \$47,000. The Obama Administration’s proposed rule change was enjoined by a judge in the Eastern District of Texas in 2017.

The proposed rule will be published in the Federal Register and there will be a 60-day public comment period before the rule is finalized. Based on the current political climate, it is almost certain that there will be legal challenges to the proposed rule.

Employers should begin preparing for the implementation of the new rule, by reviewing the exempt status of all employees and determining the number of employees that will be affected by the rule change. Campbell Durrant attorneys routinely advise employers in all aspects of the FLSA, including determining employee exempt status.