

# FLSA COMPLIANCE CHECKLIST FOR SALARY THRESHOLD UPDATES

On April 23, 2024, the final rule was issued that revises the regulations issued under section 13(a)(1) of the Fair Labor Standards Act (FLSA) (minimum wage / overtime exemptions). Revisions included increases to the standard salary level and the highly compensated employee threshold, as well as a mechanism that provides for the timely and efficient updating of these earnings thresholds to reflect current earnings data.

While businesses can reach out to HRCG, who provides comprehensive support through our HR business partner to assist with adjustments to policies and procedures, you can also use the checklist below to help navigate the FLSA changes and ensure compliance.

In addition to our compliance checklist, included below is also a list of other FLSA resources provided by the Department of Labor.



## Checklist

Use this checklist to determine if you have any employees who are currently misclassified or who will be affected by the FLSA changes:

- Review each employee's classification
  - Review who was previously exempt and who was not
  - Review who is classified as Administrative, Executive, and Professional (AEP) Employees under the FLSA duties test
- Confirm which employees are still classified as exempt (meet both the salary and duties test)
  - Determine which employees currently exceed the new weekly salary threshold
  - Confirm that those employees satisfy one of the duties tests (AEP)
- Using the prior analysis, determine which employees are no longer classified as exempt (meet both the salary and duties test)
  - Determine which employees do not exceed the new weekly salary threshold
  - Determine which employees do not pass any of the duty tests (AEP)
- Determine who to start paying overtime to, and what compensation adjustments to make (for those who pass the duty test but no longer pass the salary test)
  - Assess, to the extent possible, the amount of overtime hours each employee currently works (and are likely to work in the future)
  - Assess the amount of annual overtime pay each employee is likely to receive based on the estimated overtime hours
  - Assess the proportion of employees whose salaries are partly paid as discretionary bonuses, as opposed to only a base salary
    - Can the base salary be increased instead of continuing to pay the full discretionary bonus?
    - If so, enough to satisfy the new salary basis test?
  - Assess whether it would be more financially reasonable to hire additional employee(s) to avoid the need for any overtime hours
- Make your adjustments based on the estimated economic costs involved:
  - Increase salaries to meet the new salary level (assuming the employees satisfy the duties test) or adjust bonus plans (via reduced bonuses) to increase the base salary so that annual salary is increased; or
  - Hire additional employees as needed to reduce the need for overtime hours; or

- Reclassify the affected employees as non-exempt, with a detailed understanding of potential overtime costs
  - Develop a recordkeeping procedure of these changes to satisfy the FLSA's requirements
- Make adjustments to your payroll system
- Communicate these changes to both your workforce, and HR staff (if applicable)

## **Quick Access to FLSA Compliance Toolkit**

This toolkit contains links to various resources on the Department of Labor's website that can help you with FLSA compliance:

- [The Handy Reference Guide to the Fair Labor Standards Act](#)
- [FLSA Posters](#)
- FLSA Fact Sheets
  - [Am I an Employee?: Employment Relationship Under the Fair Labor Standards Act \(FLSA\)](#)
  - [Coverage Under the Fair Labor Standards Act \(FLSA\)](#)
  - [Exemption for Administrative Employees Under the Fair Labor Standards Act \(FLSA\)](#)
  - [Recordkeeping Requirements under the Fair Labor Standards Act \(FLSA\)](#)
  - [Hours Worked Under the Fair Labor Standards Act \(FLSA\)](#)
  - [Overtime Pay Requirements of the FLSA](#)
  - [Break Time for Nursing Mothers under the FLSA](#)



## About HRCG

The Human Resource Consulting Group (HRCG) is a premier provider of human resource services. We partner with business owners and entrepreneurs to manage their most important asset – their people. Our primary differentiation is a high-touch service model coupled with technology and expertise. With HRCG, you get a team of certified HR professionals who provide proactive strategies with positive solutions.

[Contact us](#) to learn more about our HR services and support or for assistance with compliance-related questions such as the FLSA updates.



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