



## President to “modernize” overtime protections under the FLSA

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To address concerns of income inequality, President Obama announced Thursday that he is instructing the Secretary of Labor to “modernize and streamline” the “white collar” exemptions – the Fair Labor Standards Act (FLSA) rules by which employees can qualify for classification as a bona fide executive, administrative, professional, outside sales or computer employee, which exempts them from overtime pay.

Presently, employers may treat employees as exempt from the overtime pay requirement if they fall within one of the white-collar exemptions. To do so, the employee must (a) meet a “duties” test; (b) be paid a minimum salary of \$455/week; and (c) be paid on a salary basis. The President’s directive does not provide details of the new standards but directs the Secretary to:

- Consider how the regulations could be revised to update existing protections consistent with the intent of the FLSA;
- Address the changing nature of the workplace; and
- Simplify the regulations to make them easier for workers and employers to understand and apply.

It is widely expected that the Secretary will propose a significant increase in the \$455/week minimum salary — perhaps doubling it — and will tighten the “duties” test, which will increase the number of employees that qualify for overtime.

By engaging in rulemaking-based changes, the President can bypass Congress, which refuses to pass the bill backed by the President to raise the minimum wage to \$10.10 per hour. Proposed rules are expected in the fall. The new rules likely would not take effect until 2015.

Business groups are expected to vigorously oppose this new standard, citing the increase in costs, which will likely be passed on to the consumer and the adverse impact it will have on the unemployment rate.



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