



# COMPLIANCE BULLETIN

## HIGHLIGHTS

- A federal court struck down the 2016 overtime rule that was supposed take effect on Dec. 1, 2016.
- The salary level limit for EAP employees remains at \$455 per week or \$23,660 per year.
- The salary level limit for HCEs remains at \$100,000 per year.

## IMPORTANT DATES

### November 22, 2016

A federal judge issued a preliminary injunction blocking enforcement of the overtime rule.

### August 31, 2017

The final rule was struck down.

## Provided By:

Arrow Benefits Consulting, Inc.

## Federal Court Strikes Down 2016 Overtime Rule

### OVERVIEW

On **Aug. 31, 2017**, a federal judge in Texas struck down the Department of Labor's (DOL) 2016 [overtime rule](#), stating that the DOL had exceeded its authority by issuing a new salary level requirement for white collar exempt employees.

The DOL is unlikely to appeal this court decision because the ruling does not put into question the DOL's general authority to set any type of salary limit.

However, the DOL has also signaled its intention to propose a new overtime rule. The DOL has [published](#) a request for information (RFI) to invite the public to comment on the issues the DOL should consider before proposing a new overtime rule.

### ACTION STEPS

Employers are not required to comply with the 2016 overtime final rule. This ruling ensures that the rule will not take effect. Employers should monitor developments on a new overtime rule proposal.



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## DOL Rule on White Collar Exemptions

The Fair Labor Standards Act (FLSA) establishes minimum wage and overtime pay protections for many workers in the United States. However, the FLSA exempts certain workers, such as white collar employees, from these protections. The white collar exemptions apply to certain executive, administrative, professional, outside sales, computer and highly compensated employees.

To qualify for the executive, administrative or professional (EAP) exemption, an employee must meet a **salary basis test**, a **salary level test** and a **duties test**. The DOL's 2016 overtime rule would have increased the required salary level from \$455 per week (\$23,660 per year) to \$913 per week (\$47,476 per year). Highly compensated employees (HCEs) must also satisfy the salary basis and duties tests to be considered exempt, but a different salary level applies to them. The DOL rule would have increased the required salary level for highly compensated employees from \$100,000 per year to \$134,004 per year.

## Challenges to the 2016 Overtime Rule

In September 2016, a coalition of [21 states](#) and [a number of business groups](#) filed two separate lawsuits challenging the new rule. These two lawsuits were combined in October. On Nov. 16, 2016, the court held a hearing on whether to grant an emergency injunction blocking the implementation of the rule. The judge presiding over the case issued his written ruling granting the injunction on Nov. 22, 2016.

On **Aug. 31, 2017**, the same federal court struck down the 2016 overtime rule stating that the DOL exceeded its authority when imposing the \$913 per week (\$47,476 per year) and \$134,004 per year salary level limits.

## The Future of FLSA Overtime Regulations

On July 26, 2017, the DOL [published](#) an RFI regarding the overtime exemptions for executive, administrative, professional, outside sales and computer employees. The purpose of the RFI is to gather information from the public before formulating a proposal to amend the FLSA or its regulations.

The RFI does not place any responsibilities on employers. However, any individual or organization interested in responding to the RFI must submit their comments to the DOL by **Sept. 25, 2017**. The DOL is encouraging individuals and organizations to submit their comments electronically, using the instructions in the Federal eRulemaking [Portal](#).

When submitting a comment, employers should remember that, once submitted, comments are considered public records and will be published without editing. This includes any personal information provided.

## More Information

Please contact Arrow Benefits Consulting, Inc. for more information regarding current overtime rules, compliance with the FLSA or the RFI on overtime regulations.