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New York Minimum Salary for Exemption and Minimum Wage to Increase on December 31

Law and the Workplace Blog on **November 30, 2017**

It's that time of year again! New York State's annual threshold increases for overtime exemption and minimum wage go into effect on December 31, 2017. On that date:

- The minimum salary for exemption as an "administrative" or "executive" employee increases from $825 per week ($42,900 annually) to $975 per week ($50,700 annually) for **New York City employers with 11 or more employees**;
- The minimum salary for exemption as an "administrative" or "executive" employee increases from $787.50 per week ($40,950 annually) to $900 per week ($46,800) for **New York City employers with 10 or fewer employees**;
- The minimum salary for exemption as an "administrative" or "executive" employee increases from $750 per week ($39,000 annually) to $825 per week ($42,900 annually) for employers in **Nassau, Suffolk, and Westchester** counties;
- The minimum salary for exemption as an "administrative" or "executive" employee increases from $727.50 per week ($37,830 annually) to $780 per week ($40,560 annually) for **other counties** in New York State; and
- The minimum wage increases to $13 per hour (NYC employers with eleven or more employees), $12 per hour (NYC employers with ten or fewer employee), $11 per hour (Nassau/Suffolk/Westchester), or $10.40 per hour (remainder of NYS).

New York State has no minimum salary for exempt "professional" employees, although most of those employees would still be subject to the federal salary minimum for exemption ($455 per week, or $23,660 annually).

Corresponding increases to the allowances for tips, meals, lodging, utilities, and uniform maintenance also take effect on December 31, 2017. Information on these increases can be found here (miscellaneous industries), here (hospitality industry), and here (building service industry).

Employers whose exempt “administrative” and “executive” employees are currently paid less than the new salary thresholds must either increase those salaries to the new minimums or start paying the affected employees overtime pay for hours worked in excess of 40 in a workweek.

Because overtime exemption is analyzed on a workweek by workweek basis, salary increases to bring them in line with the new minimums should begin on the first day of workweek in which December 31, 2017 falls, or else the affected employees will lose the exemption for the workweek. So if, for example, your payroll workweek is Monday to Sunday (*e.g.*, for purposes of determining whether an overtime-eligible employee has worked more than 40 hours, you begin counting on Monday and end on Sunday), you would need to make sure that the salary for the week of Monday, December 25 through Sunday, December 31 is at or above the new minimum. (Alternatively, if December 25 is a non-working holiday in your company or organization, you could elect to begin the increase in the following workweek if the affected employees will not work more than 40 hours between the 25th and the 31st.)

By contrast, minimum wage is an hourly wage, so there is no need to implement minimum wage increases prior to December 31. For salaried non-exempt employees, you would have to ensure that the average hourly pay for the workweek is at or above the new minimum wage.

If you plan to reclassify currently-exempt employees who earn less than the new salary threshold to non-exempt (*i.e.*, overtime-eligible), that conversion should be effective—and you should begin tracking hours for overtime purposes—on the first day of the workweek in which December 31 falls (which could be as early as December 25). Remember that you can pay overtime-eligible employees on an hourly, salaried, or any other basis so long as you comply with both the minimum wage and overtime laws.

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