

Injunction Placing New Overtime Rule on Hold Affects Employers in Every Industry

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Late yesterday, a federal judge in Texas issued a nationwide injunction blocking the Department of Labor's new overtime rule, which was to take effect December 1, 2016. The rule, addressing the so-called white collar exemptions, had vexed employers for months because it would have made millions more workers eligible for overtime pay. Now, it is blocked until further court order action or Congress.

The court's order ([link to order](#)) was issued in a lawsuit, commenced by 21 states and a number of business groups including the U.S. Chamber of Commerce, that sought to block the rule, challenging not only its lawfulness, but the DOL's authority to promulgate an increase in the salary test and provide for automatic increases in the first place. As we advised previously, the rule would have doubled the minimum salary (from \$23,660 to \$47,892) a fulltime worker would have to earn to be eligible for white collar exemptions from overtime.

While the court's order gives employers breathing room for implementation and potentially allows the new administration and Congress to tackle this issue further, it may be little consolation for employers who have already made significant changes in order to meet the December 1 deadline. Ultimately, whether the revised salary test rule will survive judicial challenge is still unpredictable as the preliminary injunction is not a final determination on the issue, but merely serves as a postponement of the rule's effective date. Employers are well advised to continue to plan for compliance, although there is obviously more time for implementation if they have not finalized their compliance decisions. Employers will also have to balance the potential impact on their employees if they decide to delay implementation of already announced changes as a result of this decision.

In addition, employers need to keep in mind that neither the DOL's revised rule nor the court's injunction impact the fundamental duties tests that form the cornerstone of the original rule and the court's order. So if an analysis of job positions conducted as a result of the new rule concluded that the positions were improperly classified as exempt under the duties tests, then the delay in implementation of the revised rule should not impact the reclassification decision.

We will continue to monitor these important issues as they develop.

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