

## Labor Department Proposes Overtime for Currently Exempt Employees Earning \$55,000/Year or Less

By Barry Y. Freeman & Danielle C. Young

The Labor Department released a proposed rule increasing the salary threshold for overtime-exempt employees from the current \$35,568/year to \$55,000/year. The proposal will be open for public input for 60 days once its official publication in the Federal Register. Like most similar proposals, we anticipate the \$55,000 threshold will end up lower due to protests from business groups. The question is: How much lower?

The current \$35,568 threshold was set by the Trump administration in 2020. The Obama administration set a \$47,476 threshold in 2016, but that threshold was enjoined by a court – then abandoned after the 2016 election. Given the threshold history, we anticipate the final threshold under the Biden administration’s rule will likely fall between the Obama \$47,476 figure and the currently proposed \$55,000. FYI, \$48,000 would be \$4000/month. Significantly, the current proposal also includes automatic adjustment for inflation every three years.

One thing does remain consistent: Overtime-exempt thresholds continue to be calculated using average weekly earning percentiles for full-time non-hourly workers in the Southern U.S. (the lowest wage census region.) The current threshold is based on the 20th percentile at the time of the 2020 rule. The proposed threshold is based on the current 35th percentile.

If you have any questions regarding the [new proposal](#) from the US Department of Labor or any other employment related matters, please contact any Roetzel Employment attorney. Additionally, consider contacting your business industry group or local chamber of commerce.

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