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Attorneys: 'Work to be done' for employers to adjust to new OT rules

By [Dustin Walsh](#)

The **U.S. Department of Labor** last week finalized its updated ruling on overtime regulations that greatly expand the amount of workers eligible for overtime pay.

While the agency touts a meaningful boost to the paychecks of millions of workers, businesses are now working to reduce the ruling's impact.

Under the new rules, drafted 10 months ago, the annual salary threshold at which companies are required to pay overtime to salaried workers will be doubled from \$23,660 to nearly \$47,476 — as calculated by the 40th percentile of earnings for full-time salaried workers in the poorest region of the U.S., the South.

The rule also updates what's considered a highly compensated employee (\$134,004), where they are presumed exempt from overtime pay, and provides a mechanism to update those thresholds every three years.

The DOL said 4.2 million more salaried workers are now eligible for overtime pay.

Businesses have until Dec. 1 to comply, and local attorneys are working to update their clients on the change.

"There's work to be done, and companies have to determine what the cost of compliance will be," said Gary Klotz, partner at **Butzel Long PC** in Detroit.

"The secondary effects of this regulation will be in how employers respond to minimize the effects."

Matthew Disbrow, partner and head of the labor, wage and hour matters practice at Detroit-based **Honigman Miller Schwartz and Cohn LLP**, said his clients are already assessing the changes.

"It's not a simple matter," Disbrow said. "The large majority of owners are going to look for avenues to keep their wages unchanged."

To do this, companies must begin planning now for the Dec. 1 deadline, said Brian Kreucher, partner at Royal Oak-based **Howard and Howard Attorneys PLLC**.

"Luckily, implementation is not 60 days from the ruling, but this is going to take time for companies to audit their workforce and determine what to do next," Kreucher said.

Here's what business need to do now, according to Klotz, Disbrow and Kreucher.

- Determine how many employees who were previously exempt are under the \$47,476 threshold.
- Monitor how many hours of overtime those workers log.
- Determine what is cheaper: Bump their pay to \$47,476, reduce overtime by hiring more part-time workers, eliminate those employees and put more responsibilities on higher-paid employees, or move employees from salary to an hourly compensation structure.
- Use the opportunity to reassess how employees are classified and determine whether they are exempt or not exempt based on job function — which are executive, administrative, professional and outside sales roles — and potentially reclassify their jobs.

"There will be a number of employees that receive a bump in pay," Disbrow said. "But this is not going to have the net effect on wages that the DOL anticipates. It's going to cause companies to find ways to maintain the status quo, and that's not going to benefit employees."

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