

More Employees Eligible for Overtime

Yesterday the DOL raised the income threshold for who is entitled to overtime. The test for whether someone is exempt from the overtime laws (i.e., you don't have to pay them overtime) is that they perform a certain type of qualifying duties (e.g., the white-collar exemptions), they have to be paid on a salary basis, and the salary threshold must be of a certain amount. Effective July 1, 2024, the salary threshold will increase to the equivalent of an annual salary of **\$43,888 (\$21.10/hr)** and on Jan. 1, 2025 increase to **\$58,656 (\$28.20/hr)**. The July 1 increase updates the present annual salary threshold of \$35,568. So, if you pay any employee less than \$43,888 a year, regardless of the type of work they perform, they are entitled to overtime.

Most Non-Compete Agreements Unenforceable

Yesterday the FTC passed a final rule to ban non-competes nationwide. Existing non-competes for senior executives (workers earning more than \$151,164 annually and who are in policy-making positions) will remain. But, employers are banned from entering into or attempting to enforce any new non-competes, even if they involve senior executives. Employers will be required to provide notice to workers other than senior executives who are bound by an existing noncompete that they will not be enforcing it against them. Sample language of the notice requirement is provided in the rule. The rule becomes effective 120 days after publication in the Federal Register. I don't know if you have any such agreements out there but thought you should know about this.

We expect lawsuits challenging the non-compete rule. There may be challenges to the overtime rule but that is less likely. If you have any questions about this, let me know or you can reach out to Barney Holtzman or Thom Cope in our Employment Law section.

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