

# LEGAL UPDATE

## Pennsylvania Increases Salary Threshold for Overtime Exemptions

On Oct. 2, 2020, the Pennsylvania Department of Labor and Industry (DLI) [announced](#) a new [overtime rule](#) that increases the salary threshold that must be satisfied for executive, administrative and professional (EAP) employees to qualify for an overtime wage payment exemption.

### The EAP Exemptions

The Pennsylvania Minimum Wage Act provides employers with an [exemption](#) from overtime pay for EAP employees. To qualify for these exemptions, employees must meet certain tests regarding their salary level and job duties.

### New Thresholds for the Overtime Exemption

**Effective Oct. 3, 2020**, the minimum salary required for the state Wage Act EAP overtime exemptions will match the level required for EAP overtime exemptions under the federal Fair Labor Standards Act: \$684 per week (\$35,568 annually). The state salary levels will then increase to:

- ☑ \$780 per week (\$40,560 annually) on Oct. 3, 2021; and
- ☑ \$875 per week (\$45,500 annually) on Oct. 3, 2022.

Starting in 2023, the salary level will adjust automatically every three years.

The new overtime rule allows up to 10 percent of these thresholds to be satisfied by nondiscretionary bonuses, incentives and commissions that are paid annually, quarterly or more frequently.

### Complying with Overtime Exemptions

Being paid a salary, on its own, does not automatically qualify employees for an EAP exemption. Employees must satisfy every term and condition of an applicable exemption. Similarly, actual job responsibilities, rather than job title, determine an employee's exemption status.

## Overtime Exemption Tests

### Salary Test

To qualify for the EAP exemptions from overtime requirements, an employee must receive a salary that is at least equal to the state salary level. Beginning Oct. 3, 2020, the state salary level is \$684. This will increase over the next few years.

### Duties Test

An individual's actual responsibilities (not job title) determine whether he or she meets the state's [definition](#) of an EAP employee.

*The state salary levels will increase annually following a schedule and will then be adjusted automatically every three years.*

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