



TTAA Legislative & Regulatory Update

November 25, 2024



DOL Rule Increasing Salary Threshold Set Aside

The U.S. District Court for the Eastern District of Texas has **vacated and set aside** the U.S. Department of Labor (DOL)'s final rule increasing the salary threshold for the "White Collar" overtime exemptions under the Fair Labor Standards Act (FLSA) on a nationwide basis.

- The court held that each of the three components of the rule exceeded the DOL's statutory authority under the FLSA. The court had previously enjoined enforcement of the rule against the State of Texas in its capacity as an employer of state employees; its final decision now vacates the rule for all employers nationwide.
- This means, most notably, that the increase in the salary level to be exempt to \$1,128.00 per week (\$58,656 per year) will NOT go into effect January 1, 2025. The court also struck down the July 1, 2024, increase to \$844.00 per week (\$43,888 per year). Finally, the court held that the final rule's automatic "escalator" provision, which would have increased the threshold every three years going forward, was also unlawful.
- As such, the current salary threshold to be exempt under an applicable white-collar exemption is \$684.00 per week (\$35,568 per year).

What Comes Next?

- The January 1, 2025, **increase will not go into effect** as scheduled, and as a matter of law, the July 1, 2024, increase is nullified. The salary threshold will revert to \$684 per week (\$35,568 per year).
- Employers that previously adjusted salaries or the exemption status of employees to meet the July 1 salary level of \$844.00 per week (\$43,888 per year) may have the opportunity to reduce the salary increase and/or exemption status of affected employees.
- The DOL may seek to appeal the lower court's decision to the Fifth Circuit Court of Appeals. That said, with the upcoming change in the presidential administration, we predict that under new leadership the DOL would likely abandon any appeal and allow the lower court's decision to stand. Going forward, it is less clear whether the Trump administration will revisit some or all the rule, repealing it entirely, or perhaps adopting a different formulation.

State Salary Thresholds

To ensure compliance, be aware of state salary threshold requirements that are higher than the Federal requirement.

The following states have their own salary thresholds that employers need to comply.

- Alaska: twice the state's minimum wage rate for a 40-hour workweek (\$938.40 per week as of January 1, 2024).
- California: twice the state's minimum wage rate for a 40-hour workweek (\$1,280.00 per week as of January 1, 2024).
- Colorado: changes July 1 of each year (\$1,057.69 per week as of July 1, 2024).
- Maine: \$844.00 per week as of July 1, 2024; \$1,128.00 per week as of January 1, 2025.
- New York: \$1,300.00 per week as of March 13, 2024.

- Washington: twice the state's minimum wage rate for a 40-hour workweek (\$1,302.40 per week as of January 1, 2024).

CTA Update

Legislative Update

More than 40 lawmakers sent a letter to FinCEN requesting a one-year delay of the CTA's fast-approaching reporting deadline. The effort was led by Congresswoman Lisa McClain (R-MI) and cites ongoing concerns over the lack of awareness among affected businesses when it comes to their new compliance obligations, the confusion surrounding several ongoing legal challenges, and other critical issues.

The letter helps put this issue back on the forefront of lawmakers' minds as they enter the lame duck session. So while time is quickly running out, we still have some viable legislative paths to enact a delay.

Regulatory Update

One aspect of the CTA debate that's largely gone ignored by policymakers is the estimated cost burden on the small business community.

How much will affected entities spend to comply with the new regulatory regime? Per FinCEN's own estimates, the first year cost is a whopping \$21.7 billion, and \$3.3 billion each year going forward.

But that's likely on the low end, given the analysis was based on a traditional understanding of "owner," rather than FinCEN's far more complex definition of "beneficial owner." Per the agency's analysis in its final rule, the range of total estimated costs – depending on complexity – reaches \$85.1 billion on the upper end in Year 1, with an additional \$13.1 billion each subsequent year. That's a staggering figure and amounts to a massive backdoor tax on the Main Street business community.

FinCEN has previously signaled that it will not act unilaterally to delay the CTA's filing deadline, citing a lack of statutory authority. That flies in the face of the ongoing 1099-K threshold saga, which Treasury has delayed for years now, as well as a recent announcement from FinCEN that it would provide relief from the CTA for entities impacted by recent natural disasters:

The U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) has announced that certain victims of Hurricane Milton, Hurricane Helene, Hurricane Debby, Hurricane Beryl, and Hurricane Francine will receive an additional six months to submit beneficial ownership information reports, including updates and corrections to prior reports.

FinCEN has issued five Notices extending the filing deadlines to for reporting companies that 1) have an original reporting deadline beginning one day before the date the specified disaster began and ending 90 days after that date, and 2) are located in an area that is designated both by the Federal Emergency Management Agency as qualifying for individual or public assistance and by the Internal Revenue Service as eligible for tax filing relief.

Legal Update

On October 28th four individual plaintiffs joined with the Association of American Physicians & Surgeons in suing FinCEN in the US District Court for the Northern District of Texas.

As a reminder, there are now **ten** cases in various courts across the country challenging the validity of the CTA. Here are the links:

- Alabama (appealed): NSBA et al v. Yellen (11/15/2022)
- Ohio: Robert J. Gargasz Co., L.P.A. et al v. Yellen (12/29/2023)
- Michigan: Small Business Association of Michigan et al v. Yellen (3/1/2024)
- Maine: William Boyle v. Yellen (3/15/2024)
- Texas: NFIB et al v Yellen (5/28/2024)
- Massachusetts: BECMA et al v Yellen (5/29/2024)
- Oregon: Firestone v Yellen (6/27/2024)
- Utah: Taylor v Yellen (7/29/2024)
- Virginia: Community Associations Institute v. Janet Yellen (9/10/2024)
- Texas: Association of American Physicians & Surgeons et al v Yellen (10/28/2024)

Happy Thanksgiving!

The TTAA Legislative Update will resume on 12/9/24.