

The Virgin Islands Consortium

Beginning December 1, Most Salaried Employees Earning Up To \$47,476 Annually Must Receive Overtime Compensation

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ST. THOMAS -- Department of Labor Commissioner Catherine Hendry on Friday reminded employers and employees in the territory that come December 1, most salaried workers earning up to \$47,476 a year (or from \$455 to \$913 a week) must receive time-and-a-half overtime pay when they work more than 40 hours during a week. The previous cutoff for overtime pay, set in 2004, was \$23,660.

Once the rule goes into effect, many workers will receive more pay when they work overtime, but others may end up working fewer hours if employers move to limit their time

at work. In other cases, employers may decide to increase the salaries of some workers to push them over the cutoff so that the employers will not have to pay overtime or hire additional workers after limiting hours for existing employees.

Earlier this year, Vice President Joe Biden said the cost of living had increased for the poor and middle class, and that when they work overtime, they should be compensated.

"The middle class is getting clobbered," Mr. Biden told reporters. "If you work overtime, you should actually get paid for working overtime."

"For the past 40 years, overtime protections have been increasingly weakened," Mr. Biden added, noting that more than 60 percent of salaried workers qualified for overtime in 1975 based on their salaries, but only 7 percent do today.

And President Barack Obama, whose administration is initiating the new rules, said it was past time that more employees become eligible for the overtime work that they perform.

"We're making more workers eligible for the overtime that you've earned. And it's one of the single most important steps we can take to help grow middle-class wages," Mr. Obama said in La Crosse, WI, on July 2, 2015.

Federal employment law provides two ways for most salaried workers to become eligible for overtime. The first is through a so-called duties test that essentially determines whether or not they are bona fide executives, administrators or professionals, which has historically meant spending most of their time exercising some decision-making authority. If not, they are supposed to be eligible for overtime pay. That method is open to interpretation.

The second is more of a hard-and-fast standard, setting a salary level to determine eligibility for overtime, regardless of duties. So even for employees who are legitimately managers, if their salary is below the cutoff, they must be paid overtime.

Certain categories of workers, like teachers, doctors and outside sales representatives, continue to be exempt from the regulation, though academics primarily engaged in research are not.

The overtime rule dates back to the passage of the 1938 law that established a federal minimum wage. The cutoff has been raised several times over the years. In 2004, the Bush administration also made it easier to exempt workers above the cutoff under the duties test.

In addition to increasing the basic ceiling, which will be set to match the pay of full-time salaried workers earning at the 40th percentile of salaries in the country's lowest-income region, currently the South, the new regulation will be updated every three years to keep pace with changes in pay.

The Labor Department calculates that 4.2 million workers will become newly eligible for overtime. Other estimates put the number of newly eligible workers substantially higher.

In addition, according to the department, nearly nine million more workers who should already be eligible for overtime under the current duties test will be protected against being denied overtime illegally.

Sources: Virgin Islands Department of Labor, the [United States Department of Labor](#), The New York Times.

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