



## INCREASING THE OVERTIME SALARY THRESHOLD IS FAMILY-FRIENDLY POLICY

### Women, Minorities, and Younger and Less-Educated Workers Would Be Most Helped

BY HEIDI SHIERHOLZ

**T**his issue brief investigates the characteristics of workers who would benefit from a proposed increase in the salary threshold below which all salaried workers are covered by overtime protections of the Fair Labor Standards Act (FLSA). It finds:

- 6.1 million workers would be newly covered by an increase in the salary threshold from \$455 per week to \$984 per week.
- The newly covered workers would be those at the low end of the salary scale who have limited individual bargaining power and would therefore benefit from the overtime protections of the FLSA.
- The increase would disproportionately help women, blacks, Hispanics, workers under age 35, and workers with lower levels of education because these work-

ers are more likely than other subgroups to have lower salaries that put them below the proposed new threshold.

### Background

To ensure the basic, family-friendly right to a limited workweek, the Fair Labor Standards Act requires that workers covered by FLSA overtime provisions must be paid at least “time-and-a-half,” or 1.5 times their regular pay rate, for each hour of work per week beyond 40 hours. This is a crucial protection for workers who do not receive high pay and who have limited control over their time and tasks, i.e., those with limited bargaining power vis-à-vis their employers.

These provisions also aim to *exclude* from overtime protections those professional and managerial employees who *do* have enough bargaining power that they do not need the protections, i.e., those doing relatively high level work and earning over a certain salary threshold. That salary threshold—the threshold below which all salaried workers are covered by overtime protections—is under debate.

The threshold is not indexed to inflation, so its real value erodes each year. It has been increased only once since 1975. The salary threshold for the exemption to the overtime protections of the Fair Labor Standards Act has eroded to such a level—\$455 per week, or \$23,660 for someone who works year-round—that it is currently less than the poverty threshold for a family of four. The overtime salary threshold no longer comes close to being a reasonable cut off for identifying workers with enough individual bargaining power that they do not need the overtime protections of the FLSA. Unsurprisingly, examples of abuse of salaried workers making above this threshold are rampant (see, e.g., Jamieson 2013).

Fortunately, the Obama administration can remedy this through executive action. In their paper *New Inflation-adjusted Salary Test Would Bring Needed Clarity to FLSA Overtime Rules*, Jared Bernstein and Ross Eisenbrey provide an in-depth analysis of the history and principles of the overtime coverage of the FLSA. They propose increasing the salary threshold to \$984, which is simply the 1975 threshold adjusted for inflation, and that is the proposal considered here. However, it is important to note that other research shows that this proposed threshold is quite modest and that a threshold of \$1,122 is more consistent with the 1975 benchmark, even after accounting for the shift toward higher-level white collar professional and managerial jobs that has occurred since the 1970s (Shierholz 2014).

## Characteristics of lower-earning managerial workers

**Table 1** shows the weekly earnings of salaried workers in managerial and professional occupations (in the table, weekly earnings are multiplied by 52 to provide a quick sense of the annual salary of those who work year round). In particular, the table provides earnings of demographic and education subgroups of salaried managerial and professional workers for various percentiles, in order to show the earnings of relatively low-, middle-, and high-earners. The 50<sup>th</sup> percentile worker is the median, or typical worker. The median salaried managerial/professional worker makes \$1,346 per week, which translates into \$70,000 per year for a full-year worker. Slightly under a third, 30 percent, of salaried managerial and professional workers earn less than \$50,000 (which is roughly the annual earnings for someone working year round at the proposed threshold of \$984 per week).

The breakdowns in Table 1 by gender show that salaried managerial/professional women are at the low end of the earnings scale relative to men. The median earnings of women are \$60,000, compared with \$78,000 for men, and salaried managerial/professional women earn less than men at all points of the distribution. Just 23 percent of salaried managerial/professional men earn below \$50,000, compared with 39 percent of women.

Similarly, salaried managerial/professional workers who are either black or Hispanic are at the low end of the earnings scale relative to whites. (It should be noted that the racial and ethnic categories used here are non-overlapping; blacks are non-Hispanic blacks, whites are non-Hispanic whites, and Hispanics can be of any race.) The median earnings of blacks and Hispanics are \$57,000 and \$55,000, respectively, compared with \$70,000 for whites. Just 28 percent of salaried managerial/professional whites earn below \$50,000, compared with 42 percent of blacks and 44 percent of Hispanics.

TABLE 1

## Earnings of full-time salaried workers in supervisory/managerial/professional occupations, 2013

	Earnings of demographic and education subgroups, by percentile					Share of subgroup earning under \$50,000
	10th	30th	50th	70th	90th	
<i>All</i>	34,500	50,400	70,000	93,000	150,000	30%
<i>Men</i>	37,400	57,200	78,000	100,000	150,000	23%
<i>Women</i>	30,600	45,000	60,000	77,000	120,000	39%
<i>White (non-Hispanic)</i>	35,000	52,000	70,000	96,000	150,000	28%
<i>Black (non-Hispanic)</i>	29,600	42,000	57,000	75,400	114,000	42%
<i>Hispanic</i>	28,800	42,000	55,000	75,500	120,000	44%
<i>Other</i>	39,000	59,800	75,000	100,000	150,000	23%
<i>16–24</i>	20,800	31,200	40,000	50,400	69,300	70%
<i>25–34</i>	31,200	45,000	57,000	74,500	106,000	41%
<i>35–44</i>	37,100	55,000	75,000	100,000	150,000	25%
<i>45–54</i>	37,000	55,000	75,000	100,000	150,000	25%
<i>55–64</i>	36,000	56,000	75,000	101,000	150,000	24%
<i>65+</i>	30,000	52,000	75,000	103,000	150,000	29%
<i>Less than high school</i>	19,800	29,100	40,000	52,000	75,000	69%
<i>High school</i>	26,000	39,000	50,000	65,000	100,000	51%
<i>Some college</i>	28,600	41,600	55,000	72,000	105,000	45%
<i>College degree</i>	37,700	55,000	72,000	95,000	150,000	26%
<i>Advanced degree</i>	44,000	65,000	86,000	115,000	150,000	17%

**Note:** Calculations use only data on full-time salaried (i.e. nonhourly) workers. To isolate supervisory/managerial/professional salaried workers, observations are weighted by the share in each individual's occupation that is exempt from the overtime protections of the Fair Labor Standards Act based on the duties of the occupation, according to U.S. Department of Labor codes.

**Source:** EPI analysis of Current Population Outgoing Rotation Group microdata. Earnings are weekly earnings multiplied by 52.

Unsurprisingly, salaried managerial/professional workers who are under age 35 earn less than older workers. For example, the median earnings of salaried managerial/professional workers age 25–34 is \$57,000, compared with \$75,000 for workers twenty years older, age 45–54. Just 25 percent of salaried managerial/professional workers age 45–54 earn below \$50,000, compared with 41 percent of workers age 25–34.

Salaried managerial/professional workers with lower levels of education are also at the low end of the earnings scale. The median earnings of workers with a high school

degree is \$50,000, compared with \$72,000 for workers with a college degree. Just 26 percent of salaried managerial/professional workers with a college degree earn below \$50,000, compared with 51 percent of workers with a high school degree.

## Types of salaried workers affected by increasing the overtime exemption threshold

Table 1 shows broadly that women, blacks, Hispanics, workers under age 35, and workers with lower levels of

TABLE 2

## Workers affected by proposed overtime regulations, 2013

	Salaried workers in supervisory/managerial/professional occupations		
	Total currently exempt (earn more than \$455/wk)	Would be newly covered (earn \$455 to \$984/wk)	Still exempt (earn more than \$984/wk)
<i>Total</i>	21.7 million	6.1 million	15.6 million
<i>Share of total</i>		28.2%	71.8%
<i>Men</i>	59%	46%	65%
<i>Women</i>	41%	54%	35%
<i>White (non-Hispanic)</i>	75%	72%	77%
<i>Black (non-Hispanic)</i>	7%	9%	6%
<i>Hispanic</i>	7%	11%	6%
<i>Other</i>	11%	8%	12%
<i>16–24</i>	3%	6%	1%
<i>25–34</i>	22%	31%	19%
<i>35–44</i>	27%	23%	29%
<i>45–54</i>	27%	22%	28%
<i>55–64</i>	18%	14%	19%
<i>65+</i>	4%	3%	4%
<i>Less than high school</i>	1%	2%	0%
<i>High school</i>	10%	16%	7%
<i>Some college</i>	18%	27%	15%
<i>College degree</i>	43%	38%	45%
<i>Advanced degree</i>	29%	16%	33%

**Note:** Calculations use only data on full-time salaried (i.e. nonhourly) workers. To isolate supervisory/managerial/professional salaried workers, observations are weighted by the share in each individual's occupation that is exempt from the overtime protections of the Fair Labor Standards Act based on the duties of the occupation, according to U.S. Department of Labor codes.

**Source:** EPI analysis of Current Population Outgoing Rotation Group microdata

education are at the low end of the salary scale for managerial and professional workers and would therefore disproportionately benefit from an increase in the salary threshold. **Table 2** makes this analysis of the types of salaried workers affected more concrete. First, the table shows that currently 21.7 million salaried managerial and professional workers are above the salary threshold and therefore not automatically covered by the overtime protections in the Fair Labor Standards Act. If the threshold were raised to \$984 per week, 6.1 million of those would be under the new threshold and automatically entitled to overtime protections, while 15.6 million would remain exempt.

Of the 21.7 million who are above the current threshold (i.e., currently not automatically entitled to overtime protections), 41 percent are women. However, of those who would be newly covered if the salary threshold were raised to \$984, 54 percent are women, a much larger share. In other words, as shown in Table 1, women are more likely than men to have lower salaries that put them below the proposed new threshold. This means women would disproportionately benefit from the increase in the salary threshold. Table 2 confirms this by showing that women's share of the newly covered is greater than their share of the total population that *could* be affected (those currently exempt).

Of the 21.7 million who are currently exempt, only 7 percent are black and 7 percent Hispanic, but of those who would be newly covered if the salary threshold were raised to \$984, 9 percent are black and 11 percent are Hispanic. In other words, among salaried workers, blacks and Hispanics are more likely than non-Hispanic whites to have low salaries and earn below the proposed new threshold (Table 1), and as Table 2 shows, blacks and Hispanics would disproportionately benefit from the increase in the salary threshold.

Workers under age 35 would also be disproportionately affected. For example, of the 21.7 million who are currently exempt, 22 percent are age 25–34, but of those who would be newly covered if the salary threshold were raised to \$984, 31 percent are age 25–34, a much larger share. In other words, unsurprisingly, workers under age 35 are more likely to have low salaries and earn below the proposed new threshold, meaning that workers under age 35 would disproportionately benefit from the increase.

Of the 21.7 million who are currently exempt, 29 percent do not have a college degree, but of those who would be newly covered if the salary threshold were raised to \$984, 45 percent do not have a college degree. In other words, among salaried workers, workers without a college degree are more likely to have low salaries and earn below the proposed new threshold. This means workers without a college degree would disproportionately benefit from an increase in the salary threshold. Of those who earn above the proposed threshold of \$984 and would therefore remain exempt, 78 percent have a college degree or more, while 22 percent do not have a college degree. To the extent that a college degree conveys labor market opportunities and therefore individual bargaining power, this education distribution of exempt workers is more in line with the spirit of the overtime exemptions than the current distribution.

## About the author

**Heidi Shierholz** joined the Economic Policy Institute as an economist in 2007. She has researched and spoken widely on the economy and economic policy as it affects middle- and low-income families, especially in regards to employment, unemployment, labor force participation, compensation, income and wealth inequality, young workers, unemployment insurance, and the minimum wage. Shierholz is a coauthor of *The State of Working America, 12th Edition*, is a frequent contributor to broadcast and radio news outlets, is regularly quoted in print and online media outlets, and has repeatedly been called to testify before Congress on labor market issues. Prior to joining EPI, Shierholz worked as an assistant professor of economics at the University of Toronto. She has a Ph.D. in economics from the University of Michigan at Ann Arbor.

## Acknowledgments

The Economic Policy Institute gratefully acknowledges the support it received from the Ford Foundation for this project.

## References

- Bernstein, Jared, and Ross Eisenbrey. 2014. *New Inflation-adjusted Salary Test Would Bring Needed Clarity to FLSA Overtime Rules*. Economic Policy Institute Report. <http://www.epi.org/publication/inflation-adjusted-salary-test-bring-needed/>
- Jamieson, Dave. 2013. “Join The Booming Dollar Store Economy! Low Pay, Long Hours, May Work While Injured.” *Huffington Post*, August 29. [http://www.huffingtonpost.com/2013/08/29/dollar-stores-work\\_n\\_3786781.html](http://www.huffingtonpost.com/2013/08/29/dollar-stores-work_n_3786781.html)
- Shierholz, Heidi. 2014. *It’s Time to Update Overtime Pay Rules*. Economic Policy Institute, Issue Brief No. 381. <http://www.epi.org/publication/ib381-update-overtime-pay-rules/>