

The new overtime rule will directly benefit 12.5 million working people

Who they are and where they live

Report • By [Ross Eisenbrey](#) and [Will Kimball](#) • May 17, 2016

Summary: These tables give a detailed breakdown of who is included in the estimated 12.5 million salaried workers who will directly benefit from the Department of Labor's new rule raising the salary threshold below which salaried workers are automatically eligible for overtime pay.

These tables give a detailed breakdown of EPI's estimate that 12.5 million salaried workers will directly benefit from the Department of Labor's new rule raising the salary threshold below which salaried workers are automatically eligible for overtime pay. According to our assessment, most of these 12.5 million workers will be newly eligible for overtime protections: they are currently ineligible for overtime pay because they are classified, or wrongly classified, as having job duties that preclude receiving overtime. The rest will have their rights strengthened (they are currently at risk of being classified or misclassified as ineligible for overtime). There is inherent uncertainty in these estimates because no data are available documenting who is currently eligible for or receiving overtime.

In other words, workers making at or above the old threshold could have been excluded from overtime protection if their jobs were determined to be executive, administrative, or professional (EAP) jobs. The new rule raises the threshold from \$455 per week to \$913 per week (in 2015 dollars). There are 12.5 million salaried workers making at least \$455 but less than \$913 per week, and under the Fair Labor Standards Act (FLSA), those workers could have been excluded from automatic overtime protection if they were classified, or incorrectly classified, as EAP employees.

FLSA overtime rules were established to make sure that no one but higher-level workers with control over their time or tasks works overtime without getting paid for it. Unfortunately, rule changes in 2004 regarding the "duties tests" used to determine who does relatively high-level work made it a lot easier to deprive many lower-level workers of overtime protection by tweaking their job descriptions. Employer willingness to push the limits of the law have resulted in widespread noncompliance and misclassification. Raising the threshold will return overtime protection to the employees who need it by preempting these malleable duties tests for the workers under the new threshold.

These tables describe the demographic, geographic, industry, and occupational composition of the workers who will directly benefit from the higher salary threshold. An EPI technical paper, *Estimating the Number of Workers Directly Benefiting from the Proposed Increase in the Overtime Salary Threshold*, provides the detailed computational methodology for estimating the number of workers affected by raising the overtime threshold.

As the tables show, raising the overtime salary threshold will directly benefit a broad range of working people, including:

- 6.4 million women, or 50.9 percent of all directly benefiting workers
- 4.2 million parents and 7.3 million children (under age 18)
- 1.5 million blacks (who make up 8.9 percent of the salaried workforce but 12.0 percent of directly benefiting workers), and 2.0 million Hispanics (who make up 11.8 percent of the salaried workforce but 16.0 percent of directly benefiting workers)
- 3.6 million workers age 25 to 34 (who make up 22.9 percent of the salaried workforce but 28.7 percent of directly benefiting workers)

- 4.5 million millennials, defined as workers age 16 to 34 (who make up 28.2 percent of the salaried workforce but 36.3 percent of directly benefiting workers)
- 3.2 million workers with a high school degree but not more education (who make up 15.5 percent of the salaried workforce but 25.3 percent of directly benefiting workers)

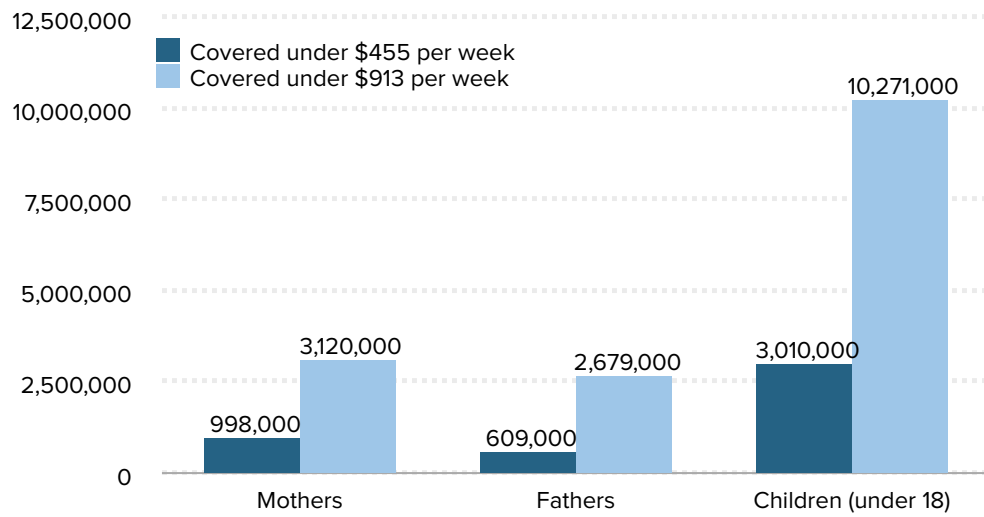
Raising the threshold will affect workers in all states, with the biggest effects—in terms of states with the greatest share of salaried workers in that state who will directly benefit from raising the threshold—in West Virginia (30.7 percent), Arkansas (30.6 percent), South Carolina (30.3 percent), Florida (29.3 percent), Tennessee (29.2 percent), Idaho (29.1 percent), Georgia (28.2 percent), South Dakota (28.2 percent), Delaware (27.7 percent), and North Dakota (27.5 percent).

Of the major industries, the new threshold will have the biggest impacts—in terms of the greatest share of salaried workers in the industry who will directly benefit from the increase in the overtime threshold—in agriculture, forestry, fishing, and hunting (39.7 percent); leisure and hospitality (37.3 percent); other services (33.2 percent); construction (32.6 percent); and public administration (32.5 percent).

Occupations with the greatest share of salaried workers in the occupation who will directly benefit will be office and administrative support occupations (46.0 percent); transportation and material moving occupations (40.4 percent); farming, fishing, and forestry occupations (40.2 percent); construction and extraction occupations (38.9 percent); and service occupations (38.0 percent).

Figure A

Number of fathers, mothers, and their children covered under old and new overtime salary thresholds, 2015



Note: The sample reflects salaried (nonhourly) workers who are subject to the Fair Labor Standards Act (FLSA). This excludes certain groups of workers such as the self-employed, most federal workers, religious workers, many agricultural workers, and many transportation workers.

Source: EPI analysis of the U.S. Department of Labor's proposed (July 6, 2015) and final (May 18, 2016) rule, "Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees," 29 CFR Part 541; and Current Population Survey Outgoing Rotation Group microdata, 2015

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Table 1

Salaried workers* directly benefiting from the increase in the overtime salary threshold to \$913/week, by demographic, 2015

Group	Total salaried workers*	Directly benefiting salaried workers**	Share of group's salaried workers that are directly benefiting	Group's share of directly benefiting workers	Group's share of total salaried workforce
	(A)	(B)	(C)=(B/A)	(D)=(B _x /B ₁)	(E)=(A _x /A ₁)
All (1)	53,717,000	12,502,000	23.3%	100.0%	100.0%
Gender					
Male	28,495,000	6,133,000	21.5%	49.1%	53.0%
Female	25,223,000	6,369,000	25.3%	50.9%	47.0%
Race/ethnicity***					
White	37,656,000	8,038,000	21.3%	64.3%	70.1%
Black	4,799,000	1,504,000	31.3%	12.0%	8.9%
Hispanic	6,359,000	2,006,000	31.5%	16.0%	11.8%
Asian	4,100,000	771,000	18.8%	6.2%	7.6%
Other	4,904,000	182,000	22.7%	1.5%	1.5%
Age group					
16–34	15,130,000	4,535,000	30.0%	36.3%	28.2%
16–24	2,849,000	941,000	33.0%	7.5%	5.3%
25–34	12,280,000	3,594,000	29.3%	28.7%	22.9%
35–44	13,145,000	2,769,000	21.1%	22.1%	24.5%
45–54	13,221,000	2,739,000	20.7%	21.9%	24.6%
55–64	9,461,000	1,990,000	21.0%	15.9%	17.6%
65+	2,760,000	469,000	17.0%	3.8%	5.1%
Educational attainment					
Less than high school	1,853,000	693,000	37.4%	5.5%	3.4%
High school	8,312,000	3,158,000	38.0%	25.3%	15.5%
Some college	11,418,000	3,836,000	33.6%	30.7%	21.3%
College degree	19,007,000	3,658,000	19.2%	29.3%	35.4%
Advanced degree	13,128,000	1,157,000	8.8%	9.3%	24.4%

Table 1
(cont.)

* The sample reflects salaried (nonhourly) workers who are subject to the Fair Labor Standards Act (FLSA). This excludes certain groups of workers such as the self-employed, most federal workers, religious workers, many agricultural workers, and many transportation workers.

** Directly benefiting salaried workers are those who will newly be guaranteed overtime protection by virtue of their salary alone under the higher overtime threshold, i.e., they make at least \$455 a week (the old threshold) but less than \$913 a week (the new threshold in 2015 dollars). This includes workers who are newly eligible (they were excluded from automatic overtime protection because they were classified, in some cases incorrectly, as executive, administrative, and professional or "EAP" employees); and workers whose rights are strengthened (they were at risk of being classified as EAP employees).

*** Race/ethnicity categories are mutually exclusive (i.e., white non-Hispanic, black non-Hispanic, and Hispanic any race).

Note: Subtotals may not add up to totals due to rounding.

Source: EPI analysis of the U.S. Department of Labor's proposed (July 6, 2015) and final (May 18, 2016) rule, "Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees," 29 CFR Part 541; and Current Population Survey Outgoing Rotation Group microdata, 2015

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Table 2

Number of mothers, fathers, and children newly covered by updated overtime salary threshold, by demographic, 2015

	Covered under \$455	Covered under \$913	Newly covered under \$913
<i>Mothers</i>	998,000	3,120,000	2,122,000
<i>Fathers</i>	609,000	2,679,000	2,070,000
<i>Children (under 18)</i>	3,010,000	10,271,000	7,261,000

Note: The sample reflects salaried (nonhourly) workers who are subject to the Fair Labor Standards Act (FLSA). This excludes certain groups of workers such as the self-employed, most federal workers, religious workers, many agricultural workers, and many transportation workers.

Source: EPI analysis of the U.S. Department of Labor's proposed (July 6, 2015) and final (May 18, 2016) rule, "Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees," 29 CFR Part 541; and Current Population Survey Outgoing Rotation Group microdata, 2015

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Table 3

Salaried workers directly benefiting from the increase in the overtime salary threshold, by state, 2015

State	Total salaried workers*	Directly benefiting salaried workers**	Share of state's salaried workers that are directly benefiting	State's share of directly benefiting workers	State's share of total salaried workforce
	(A)	(B)	(C)=(B/A)	(D)=(Bx/B1)	(E)=(Ax/A1)
<i>United States(1)</i>	53,717,000	12,502,000	23.3%	100.0%	100.0%
<i>Alabama</i>	632,000	167,000	26.4%	1.3%	1.2%
<i>Alaska</i>	90,000	16,000	17.6%	0.1%	0.2%
<i>Arizona</i>	999,000	258,000	25.8%	2.1%	1.9%
<i>Arkansas</i>	425,000	130,000	30.6%	1.0%	0.8%
<i>California</i>	6,005,000	1,076,000	17.9%	8.6%	11.2%
<i>Colorado</i>	1,033,000	248,000	24.0%	2.0%	1.9%
<i>Connecticut</i>	700,000	113,000	16.2%	0.9%	1.3%
<i>Delaware</i>	176,000	49,000	27.7%	0.4%	0.3%
<i>District of Columbia</i>	170,000	29,000	16.8%	0.2%	0.3%
<i>Florida</i>	3,645,000	1,068,000	29.3%	8.5%	6.8%
<i>Georgia</i>	1,748,000	493,000	28.2%	3.9%	3.3%
<i>Hawaii</i>	214,000	57,000	26.4%	0.5%	0.4%
<i>Idaho</i>	219,000	64,000	29.1%	0.5%	0.4%
<i>Illinois</i>	2,359,000	539,000	22.8%	4.3%	4.4%
<i>Indiana</i>	999,000	248,000	24.9%	2.0%	1.9%
<i>Iowa</i>	493,000	124,000	25.2%	1.0%	0.9%
<i>Kansas</i>	449,000	98,000	21.7%	0.8%	0.8%
<i>Kentucky</i>	591,000	149,000	25.1%	1.2%	1.1%
<i>Louisiana</i>	710,000	174,000	24.5%	1.4%	1.3%
<i>Maine</i>	191,000	46,000	24.2%	0.4%	0.4%
<i>Maryland</i>	1,156,000	233,000	20.2%	1.9%	2.2%
<i>Massachusetts</i>	1,454,000	262,000	18.0%	2.1%	2.7%
<i>Michigan</i>	1,366,000	275,000	20.1%	2.2%	2.5%
<i>Minnesota</i>	961,000	158,000	16.4%	1.3%	1.8%
<i>Mississippi</i>	349,000	88,000	25.3%	0.7%	0.6%
<i>Missouri</i>	979,000	257,000	26.3%	2.1%	1.8%

Table 3
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State	Total salaried workers*	Directly benefiting salaried workers**	Share of state's salaried workers that are directly benefiting	State's share of directly benefiting workers	State's share of total salaried workforce
	(A)	(B)	(C)=(B/A)	(D)=(Bx/B1)	(E)=(Ax/A1)
<i>Montana</i>	126,000	33,000	26.4%	0.3%	0.2%
<i>Nebraska</i>	314,000	81,000	25.8%	0.6%	0.6%
<i>Nevada</i>	428,000	115,000	26.9%	0.9%	0.8%
<i>New Hampshire</i>	253,000	54,000	21.5%	0.4%	0.5%
<i>New Jersey</i>	2,050,000	410,000	20.0%	3.3%	3.8%
<i>New Mexico</i>	242,000	61,000	25.3%	0.5%	0.5%
<i>New York</i>	4,157,000	982,000	23.6%	7.9%	7.7%
<i>North Carolina</i>	1,653,000	425,000	25.7%	3.4%	3.1%
<i>North Dakota</i>	122,000	34,000	27.5%	0.3%	0.2%
<i>Ohio</i>	1,677,000	351,000	20.9%	2.8%	3.1%
<i>Oklahoma</i>	587,000	154,000	26.2%	1.2%	1.1%
<i>Oregon</i>	568,000	124,000	21.9%	1.0%	1.1%
<i>Pennsylvania</i>	2,035,000	459,000	22.6%	3.7%	3.8%
<i>Rhode Island</i>	169,000	37,000	21.8%	0.3%	0.3%
<i>South Carolina</i>	724,000	219,000	30.3%	1.8%	1.3%
<i>South Dakota</i>	115,000	32,000	28.2%	0.3%	0.2%
<i>Tennessee</i>	993,000	290,000	29.2%	2.3%	1.8%
<i>Texas</i>	4,906,000	1,244,000	25.4%	9.9%	9.1%
<i>Utah</i>	493,000	119,000	24.1%	1.0%	0.9%
<i>Vermont</i>	109,000	25,000	22.9%	0.2%	0.2%
<i>Virginia</i>	1,578,000	333,000	21.1%	2.7%	2.9%
<i>Washington</i>	1,146,000	232,000	20.2%	1.9%	2.1%
<i>West Virginia</i>	215,000	66,000	30.7%	0.5%	0.4%
<i>Wisconsin</i>	866,000	187,000	21.6%	1.5%	1.6%
<i>Wyoming</i>	80,000	20,000	24.6%	0.2%	0.1%

* The sample reflects salaried (nonhourly) workers who are subject to the Fair Labor Standards Act (FLSA). This excludes certain groups of workers such as the self-employed, most federal workers, religious workers, many agricultural workers, and many transportation workers.

** Directly benefiting salaried workers are those who will newly be guaranteed overtime protection by virtue of their salary alone under the higher overtime threshold, i.e., they make at least \$455 a week (the old threshold) but less than \$913 a week (the new threshold in 2015 dollars). This includes workers who are newly eligible (they were excluded from automatic overtime protection because they were classified, in some cases incorrectly, as executive, adminis-

Table 3
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trative, and professional or "EAP" employees); and workers whose rights are strengthened (they were at risk of being classified as EAP employees).

Note: Subtotals may not add up to total due to rounding.

Source: EPI analysis of the U.S. Department of Labor's proposed (July 6, 2015) and final (May 18, 2016) rule, "Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees," 29 CFR Part 541; and Current Population Survey Outgoing Rotation Group microdata, 2015

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Table 4

Salaried workers directly benefiting from the increase in the overtime salary threshold, by major industry, 2015

	Total salaried workers*	Directly benefiting salaried workers**	Share of industry's salaried workers that are directly benefiting	Industry's share of directly benefiting workers	Industry's share of total salaried workforce
	(A)	(B)	(C)=(B/A)	(D)=(B _x /B ₁)	(E)=(A _x /A ₁)
All (1)	53,717,000	12,502,000	23.3%	100.0%	100.0%
Agriculture, forestry, fishing, and hunting	333,000	132,000	39.7%	1.1%	0.6%
Mining	390,000	62,000	15.9%	0.5%	0.7%
Construction	2,395,000	780,000	32.6%	6.2%	4.5%
Manufacturing	5,419,000	1,141,000	21.1%	9.1%	10.1%
Wholesale and retail trade	5,435,000	1,698,000	31.2%	13.6%	10.1%
Transportation and utilities	1,999,000	557,000	27.8%	4.5%	3.7%
Information	1,489,000	319,000	21.4%	2.5%	2.8%
Financial activities	5,315,000	1,238,000	23.3%	9.9%	9.9%
Professional and business services	7,543,000	1,567,000	20.8%	12.5%	14.0%
Educational and health services	16,311,000	2,568,000	15.7%	20.5%	30.4%
Leisure and hospitality	2,572,000	959,000	37.3%	7.7%	4.8%
Other services	2,061,000	684,000	33.2%	5.5%	3.8%
Public administration	2,456,000	798,000	32.5%	6.4%	4.6%

* The sample reflects salaried (nonhourly) workers who are subject to the Fair Labor Standards Act (FLSA). This excludes certain groups of workers such as the self-employed, most federal workers, religious workers, many agricultural workers, and many transportation workers.

** Directly benefiting salaried workers are those who will newly be guaranteed overtime protection by virtue of their salary alone under the higher overtime threshold, i.e., they make at least \$455 a week (the old threshold) but less than \$913 a week (the new threshold in 2015 dollars). This includes workers who are newly eligible (they were excluded from automatic overtime protection because they were classified, in some cases incorrectly, as executive, administrative, and professional or "EAP" employees); and workers whose rights are strengthened (they were at risk of being classified as EAP employees).

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Table 5

Salaried workers directly benefiting from the increase in the overtime salary threshold, by major occupation, 2015

	Total salaried workers*	Directly benefiting salaried workers**	Share of industry's salaried workers that are directly benefiting	Industry's share of directly benefiting workers	Industry's share of total salaried workforce
	(A)	(B)	(C)=(B/A)	(D)=(Bx/B1)	(E)=(Ax/A1)
All (1)	53,717,000	12,502,000	23.3%	100.0%	100.0%
Management, business, and financial occupations	14,167,000	2,549,000	18.0%	20.4%	26.4%
Professional and related occupations	19,690,000	2,353,000	12.0%	18.8%	36.7%
Services occupations	4,199,000	1,595,000	38.0%	12.8%	7.8%
Sales and related occupations	5,281,000	1,627,000	30.8%	13.0%	9.8%
Office and administrative support occupations	4,987,000	2,294,000	46.0%	18.3%	9.3%
Farming, fishing, and forestry occupations	243,000	98,000	40.2%	0.8%	0.5%
Construction and extraction occupations	1,426,000	554,000	38.9%	4.4%	2.7%
Installation, maintenance, and repair occupations	1,073,000	403,000	37.6%	3.2%	2.0%
Production occupations	1,315,000	489,000	37.1%	3.9%	2.4%
Transportation and material moving occupations	1,337,000	540,000	40.4%	4.3%	2.5%

* The sample reflects salaried (nonhourly) workers who are subject to the Fair Labor Standards Act (FLSA). This excludes certain groups of workers such as the self-employed, most federal workers, religious workers, many agricultural workers, and many transportation workers.

** Directly benefiting salaried workers are those who will newly be guaranteed overtime protection by virtue of their salary alone under the higher overtime threshold, i.e., they make at least \$455 a week (the old threshold) but less than \$913 a week (the new threshold in 2015 dollars). This includes workers who are newly eligible (they were excluded from automatic overtime protection because they were classified, in some cases incorrectly, as executive, administrative, and professional or "EAP" employees); and workers whose rights are strengthened (they were at risk of being classified as EAP employees).

Note: Subtotals may not add up to total due to rounding.

Table 5
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Source: EPI analysis of the U.S. Department of Labor's proposed (July 6, 2015) and final (May 18, 2016) rule, "Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees," 29 CFR Part 541; and Current Population Survey Outgoing Rotation Group microdata, 2015

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