

Tamara Devitt in HR Magazine: Employers Can't Ignore State Overtime Exemption Rules

By Tamara I. Devitt | March 11, 2019

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Haynes Boone Partner [Tamara Devitt](#) talked with *HR Magazine* about the Department of Labor's (DOL's) proposed \$35,308 salary threshold for the white-collar exemptions from overtime pay under the Fair Labor Standards Act (FLSA).

Here is an excerpt:

Multistate employers should look at compliance on a state-by-state basis, said Tamara Devitt, an attorney with Haynes Boone in Costa Mesa, Calif. The general rule in employment law is that businesses must comply with the rule that provides the most protection for the employee. So, for example, in states that have their own exemption tests—such as California—the employer must satisfy whichever salary threshold is greater, whether it's the federal or state rate.

In Maine, the annual salary for exempt workers must be at least 3,000 times the state minimum wage, but if the salary basis is higher under the FLSA, then the employer must meet the FLSA's threshold. The general rule requires employers to comply with the law that provides the most compensation to the employee, Devitt noted.

Employers also need to review the job duties that qualify for a particular exemption—which may be different under federal and state law. When federal and state rules conflict, employers must conduct an often-complicated analysis to determine which rule applies, Devitt said.

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