



## PHILLIPS LYTLE LLP CLIENT ALERT

### LABOR & EMPLOYMENT



FEBRUARY 2023

## *Increased Salary Level Now in Effect for Overtime Exempt Executive and Administrative Employees in Upstate New York*

In November 2022,<sup>1</sup> we reported that the New York State Department of Labor (DOL) had proposed increasing the minimum salary level for overtime exempt executive and administrative employees working in upstate New York (*i.e.*, outside of New York City and Nassau, Suffolk and Westchester counties) from \$990 per week to \$1,064.25 per week, effective on December 31, 2022, but that it had not then been formally adopted. The proposal to increase the exempt salary level had been mentioned in the DOL's proposal to increase the minimum wage for employees working in upstate New York from \$13.20 to \$14.20 per hour effective December 31, 2022 (which has taken effect), but it was unclear from the DOL's regulatory notice whether it had formally proposed increasing it. After several months of uncertainty, the DOL has issued updated wage orders confirming that the salary level for overtime exempt executive and administrative employees working in upstate New York has indeed increased from \$990 per week to \$1,064.25 per week effective as of December 31, 2022.

As a result of this change, overtime exempt executive and administrative employees working in upstate New York

must now receive a weekly salary of at least \$1,064.25 or \$55,341 annually. (The minimum salary level for exempt executive and administrative employees working in New York City and Nassau, Suffolk and Westchester counties is currently \$1,125 per week or \$58,500 annually.) New York State does not have a minimum salary level for overtime exempt professional employees. Therefore, the minimum salary level for overtime exempt professional employees in New York State, regardless of location, is the current federal exempt salary level of \$684 per week or \$35,568 annually.

All New York State employers should review their pay practices to ensure that employees treated as overtime exempt executive, administrative or professional employees are paid at least the required minimum salary level.

### **Additional Assistance**

*Our attorneys remain ready to provide advice and guidance on complying with this new law or any other workplace issues. For further assistance, please contact any of the attorneys on our [Labor & Employment Practice Team](#) or the [Phillips Lytle attorney](#) with whom you have a relationship. ■*

<sup>1</sup> "New York State Minimum Wage Rate for Upstate Employers Set to Increase on December 31, 2022," Phillips Lytle Labor & Employment Law Client Alert, November 2022 <https://phillipslytle.com/publications/client-alert/new-york-state-minimum-wage-rate-for-upstate-employers-set-to-increase-on-december-31-2022/>