

CA and NY Adopt \$15 Minimum Wage

On April 4, California became the first state to enact a minimum wage of \$15 per hour, to be phased in by 2022. In a budget deal signed into law that same day, New York also raised its minimum wage to \$15 per hour, but with regional variations on both the timing and amount of staged increases. Employers will want to factor the new wage rates into their overall compensation and compliance strategies.

Background

The current federal minimum wage of \$7.25 per hour has been in place since 2009. Even as organized labor and other groups press for a \$15 minimum wage nationwide, efforts to raise the federal minimum wage have not advanced in Congress. Yet, the trend toward higher wage rates at the state and local levels has been growing, and a majority of states now have minimum wages higher than the federal floor. (See our [December 9, 2015 For Your Information](#).)

Some of these states, cities and counties have already scheduled additional increases, while the rates in other locales are indexed for inflation and will automatically adjust on a go-forward basis. As minimum wage requirements continue to change, employers will have to adjust their payroll systems, overtime pay rates and, in some cases, employee exemptions from overtime requirements to ensure compliance in each of the locations where they operate.

California Hikes Minimum Wage Statewide

California Governor Jerry Brown signed [Senate Bill 3](#) into law on April 4, enacting the highest statewide minimum wage in the country. California's minimum wage will gradually increase from the current \$10.00 to \$15.00 per hour. For employers with at least 26 employees, the increase will be phased in by 2022, with rates beginning to rise in 2017. For smaller employers, the phase-in will begin and end one year later.



The minimum wage rate for employers with 26 or more employees is slated to increase on the following schedule.

Date	Minimum Wage Rate
January 1, 2017	\$10.50 per hour
January 1, 2018	\$11.00 per hour
January 1, 2019	\$12.00 per hour
January 1, 2020	\$13.00 per hour
January 1, 2021	\$14.00 per hour
January 1, 2022	\$15.00 per hour

Starting on August 1, 2022, and annually thereafter, the state's director of finance will increase the minimum wage for the next year by 3.5% or the rate of inflation as measured by the national Consumer Price Index, whichever is lower. The governor will be able to intervene in the event of a forecasted budget deficit exceeding one percent of annual revenue or an economic downturn.

Comment. Because the law does not nullify higher local minimum wage rates already in effect or bar cities or counties from enacting ordinances setting their own wage rates at higher levels than the state's, employers in those areas will still have to pay employees at the higher local rate.

Unlike the federal Fair Labor Standards Act, California law ties the availability of the so-called white-collar exemptions from its overtime requirements to the state minimum wage. To qualify for an exemption, California employees currently must earn at least twice the state's minimum wage (or an annual salary of \$41,600) and satisfy certain other criteria. The salary threshold will increase each year, as the minimum wage rate rises. Based on a \$15 per hour minimum wage, an employee would need to earn a minimum annual salary of \$62,400 to support exempt status.

New York Approves Regional Wage Hikes

New York Governor Andrew Cuomo signed a New York budget deal ([S. 6406C](#)) into law on April 4. Because New York adopted a regional rather than a statewide approach to raising the minimum wage, employers throughout the state will not face uniform increases. In New York City, the measure boosts the minimum wage

FLSA Exemptions

Under the FLSA, an individual may qualify for one of the so-called "white-collar exemptions" from federal minimum wage and overtime requirements if he or she is paid a salary of at least \$455 per week and satisfies certain other requirements. However, that threshold is expected to increase substantially when the DOL issues new overtime rules in the coming weeks. (See our [March 16, 2016 For Your Information](#).)

While most states apply FLSA standards to determine overtime eligibility, some states — like California — base the minimum salary thresholds for exempt/nonexempt status on the state minimum wage. Employers should ensure that any increases in state or local minimum wage rates do not affect employee classification.

from the current \$9 per hour to \$15 per hour for employers with 11 or more employees by the end of 2018. Smaller employers in New York City will see a \$15 per hour minimum wage rate by the end of 2019. Employers in other parts of the state will see slower, smaller rate hikes.

The minimum wage rates are slated to increase for each region of the state on the following schedule.

Date	NYC Large Employers (11 or more employees)	NYC Small Employers (10 or fewer employees)	Nassau, Suffolk and Westchester Employers	Upstate Employers
December 31, 2016	\$11.00 per hour	\$10.50 per hour	\$10.00 per hour	\$9.70 per hour
December 31, 2017	\$13.00 per hour	\$12.00 per hour	\$11.00 per hour	\$10.40 per hour
December 31, 2018	\$15.00 per hour	\$13.50 per hour	\$12.00 per hour	\$11.10 per hour
December 31, 2019		\$15.00 per hour	\$13.00 per hour	\$11.80 per hour
December 31, 2020			\$14.00 per hour	\$12.50 per hour
December 31, 2021			\$15.00 per hour	TBD annually by labor commissioner, up to \$15.00 per hour

Note: A new minimum wage for fast food workers began its [scheduled phase-in](#) on December 31, 2015, with rates of \$10.50 per hour in NYC and \$9.75 in the rest of the state. Those rates will increase annually until they reach \$15.00 at the end of 2018 for NYC and in mid- 2021 for the rest of the state.

Unlike California, New York law does not tie an employee's exemption from its overtime requirements to the state's minimum wage. Instead, current law sets the current salary floor for an otherwise exempt employee at \$675 per week. Although the budget bill did not address the current threshold, it is likely that the salary floor will be increased in conjunction with the substantial minimum wage hike.

Comment. The New York State Minimum Wage Orders contain overtime requirements that are in addition to those required by federal law. Occupations exempt from overtime under the FLSA but entitled to overtime under state law must be paid for overtime hours at a rate of 1½ times the state minimum wage, regardless of the amount of their regular rate of pay. Employers should make sure to review both the federal and state requirements to determine proper overtime pay.

Like the California law, the New York law will allow the Division of Budget to delay scheduled increases in the minimum wage due to economic conditions.

In Closing

Both California and New York have embraced a \$15 per hour minimum wage, but they have taken different approaches to implementing it. The \$15 rate will apply to all large employers in California by 2022, while the minimum wage will increase on differing regional schedules in New York. While these changes in the minimum wage will largely affect nonexempt employees, they may also impact overtime-exempt employees. Employers will want to factor the new rates into their overall compensation and compliance strategies.

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