

EMPLOYEE CLASSIFICATION AUDIT EXEMPT or NON-EXEMPT CHECKLIST

To be considered exempt from overtime, an employee must *generally*:

- a. Be paid on a fixed salary basis
- b. Perform only administrative, clerical, management duties – no ‘hands on’ managers
- c. Be paid no less than \$455 per week
- d. The employee may qualify under the Highly Compensated Test requiring a minimum annual salary of \$23,660 with at least \$455 in every week.
- e. Job duties must meet the D.O.L.’s standards for one of the six exemption categories.

REMEMBER

1. Job title is not a factor in determining exemption.
2. The job duties decide whether the employee qualifies for the exemption from minimum wage and or overtime guidelines.
3. Job descriptions are not an option for your exempt employees. They are mandatory. Be sure you have them on file. They must be updated annually.

Executive Exempt Employee

1. Is the employee’s primary duty managing the enterprise or a department or subdivision of the enterprise? _____
2. Does the employee customarily direct the work 2 or more employees meeting at least 80 man-hours per week? _____
3. Does the employee have the authority to hire or fire, and do their recommendations carry significant weight if unauthorized to make the final decision? _____
4. Is the employee paid the equivalent of at least \$455 per week on a salary basis? _____
5. The employee may qualify under the Highly Compensated Test requiring a minimum annual salary of \$23,660 with at least \$455 in every week.

***** If the employee is at least a 20 percent owner of the business and meets requirements #1 and #2 above, the salary requirement in #4 and the authority requirement in #3 need not be met.***

Administrative Exempt Employee

1. Is the employee’s primary duty performing office or non-manual work directly related to the management or general business operations of the employer or the employer’s customers? _____
2. Does the employee exercise discretion and independent judgment with respect to matters of significance? For example, does he evaluate and compare possible courses of action and then make a decision or recommendation after considering the various possibilities? _____
3. Is the employee paid the equivalent of at least \$455 per week on a salary basis? _____
4. The employee may qualify under the Highly Compensated Test requiring a minimum annual salary of \$23,660 with at least \$455 in every week. **** This is frequently a person who is viewed by the staff as management even though they are technically not a manager or supervisor. Perhaps this is the person who is the single member HR office. It must be an individual who touches matters of significance in the organization on a regular basis and is not performing routing secretarial-style duties which may be repetitive in nature.****

Learned Professional Employee

1. Is the employee's primary duty to perform work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction? _____
2. Is the advanced knowledge obtained by completing an academic course of study resulting in a four-year college degree or leading to certification? _____
3. Is the employee paid the equivalent of at least \$455 per week on a salary basis? _____
4. The employee may qualify under the Highly Compensated Test requiring a minimum annual salary of \$23,660 with at least \$455 in every week.

Exceptions to the Rules:

Those who've completed the educational requirements for a law or medical degree need not meet the minimum salary requirement. Also, teachers need not be certified or meet the minimum salary requirement to qualify as learned professionals.

Creative Professional Employee

1. Is the employee's primary duty to perform work requiring invention, originality or talent in a recognized field of artistic endeavor such as music, writing, acting, and the graphic arts? _____
2. Does the work require an **actual talent** more than intelligence, diligence and accuracy? _____
3. Is the employee paid the equivalent of at least \$455 per week on a salary or fee basis? _____
4. The employee may qualify under the Highly Compensated Test requiring a minimum annual salary of \$23,660 with at least \$455 in every week.

Computer Professional

1. Is the employee paid at least \$455 per week on a salary or fee basis or, if paid hourly, at a rate of not less than \$27.63 per hour? _____
2. Is the employee's primary duty:
 - Application of system analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications; or
 - Design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications; or
 - Design, testing, documentation, creation or modification of computer programs related to machine operating systems; or
 - A combination of the aforementioned duties requiring the same level of skills?

If you answered "No" to #1 or were unable to answer "Yes" to any parts under #2, you may have misclassified the worker as an exempt computer professional.

4. The employee may qualify under the Highly Compensated Test requiring a minimum annual salary of \$23,660 with at least \$455 in every week.

Outside Sales Employee

1. Is the worker's primary duty making outside sales? _____
2. Does he regularly work away from the company's place of business? _____
3. Does the worker sell tangible or intangible items, such as goods, insurance, stocks, bonds or real estate, or obtain orders or contracts for services or the use of facilities? _____
4. Does the worker have the ability to 'call the shot, slash the price, and make the deal'? _____

Based on the criteria above and detailed guidance provided by the Department of Labor my determination is:

_____ holds the position of _____ that qualifies for classification as an Overtime Exempt status employee under the _____ level exemption.

The status of this position, job description and the duties performed will be evaluated on at least an annual basis.

Signed by

Date