

## FLSA Exemption Test Worksheet

Executive, Administrative, Computer, and Professional Exemption Tests

*Federal law provides that certain employees may be exempt from the overtime wage provisions of the Fair Labor Standards Act (FLSA) under the following exemption categories: EXECUTIVE, PROFESSIONAL, ADMINISTRATIVE, or COMPUTER.*

*In order for an employee to qualify as being EXEMPT from overtime, and thus not be required to be paid at one and one-half his or her regular salary for hours worked in excess of 40 per workweek, an employee must qualify under one of the exemption categories. Additionally, the classification must meet a salary basis test to remain an exempt employee. As of January 1, 2018 the minimum salary level for exempt classifications is \$45,760 annually (Twice the minimum wage).*

**The County must ensure that new or currently exempt positions meet the exemption status criteria.** Exemption status is determined by completing the following test based on each position’s duties, level of responsibility and decision making authority, and the employee’s base pay rate.

Employee Name	Employee ID Number
Classification Title	Current Exemption Status for Classification: <input type="checkbox"/> FLSA Exempt <input type="checkbox"/> FLSA Non-Exempt
Department	Current Salary

### INSTRUCTIONS

1. Read the criteria for each exemption category: Executive, Administrative, Computer, and Professional (learned or creative).
2. Complete the worksheets on applicable exemption categories. Place an “x” in each box that applies to this position. You may check boxes in more than one exemption category. Give specific and detailed answers to the questions asked.
3. After checking the relevant boxes and providing detailed answers, please make a recommendation in the exempt or non-exempt box on page 7.
4. Please note that the employee must also meet the salary basis test to be exempt under the FLSA. If the employee in the position earns less than the required minimum salary for exemption (\$840 per week, twice the minimum wage), the employee is considered non-exempt and is subject to the overtime provisions of the FLSA even if the position’s duties meet the duties test for exemption.

**EXECUTIVE**

To be classified as an FLSA exempt executive employee, the employee must hold a position requiring that they regularly perform duties which are consistent with the management of a Department or customarily recognized division. In addition an FLSA exempt employee must regularly supervise and direct two or more FTE employees, and they must have authority to hire or fire other employees or their suggestions as to such are given particular weight, and the employee must be paid a weekly salary of \$840 or higher.

1. Does the employee receive a salary of at least \$840 per week?	<input type="checkbox"/> YES <input type="checkbox"/> NO
Does the employee’s position’s primary duty consist of managing a department or subdivision, which has a permanent status and continuing function? It is a good “rule of thumb” for the primary duty to take about 50% of the worker’s time. However, time alone is not the only consideration. Other factors to consider include: The relative importance of the exempt duties compared to the nonexempt duties. The amount of time spent performing exempt duties. The worker’s freedom from direct supervision. The relationship between the worker’s salary and wages paid to other employees for the same kind of exempt work.	<input type="checkbox"/> YES <input type="checkbox"/> NO
Does the employee customarily and regularly direct the work of two or more FTE employees or their equivalent?	<input type="checkbox"/> YES <input type="checkbox"/> NO
Does the employee have the authority to hire or fire other employees or are the employee’s suggestions and recommendations as to hiring, firing, advancement, promotion or any other change of status of other employees given particular weight? (“Particular weight” means this requirement is defined as a responsibility in the employee’s job duties (Job Description) and it is not an occasional requirement).	<input type="checkbox"/> YES <input type="checkbox"/> NO

If the answer to any of these questions is “no”, then the employee does not meet the “Executive” exemption requirements. However, they may meet either the “Administrative” or “Professional” exemption requirements.

**Do you recommend that this position be exempt from the overtime provisions of the Fair Labor Standards Act?**

- Yes**                       **No**

If the answer is “Yes”, please provide justification below:

**ADMINISTRATIVE**

To be classified as an FLSA exempt administrative employee, the employee must be paid a weekly salary of \$840 or higher; hold a position where primary position duties require the exercise of discretion and independent judgment and the performance of office or non-manual work related to the management policies or general business operations of the employer or the employer’s customers.

1. Does the employee receive a salary of at least \$840 per week?	<input type="checkbox"/> YES <input type="checkbox"/> NO
2. Does this employee perform work that is directly related to assisting with the running of the business or act as an advisor or consultant to the employer’s clients or customers? Consider the following factors and definitions when determining whether an employee performs administrative duties: <ul style="list-style-type: none"> <li>• Administrative operations of the business include advising management, planning, negotiating, representing the company, purchasing, promoting sales, and business research and control.</li> <li>• These activities frequently include: tax, finance, accounting, audit, insurance, quality control, purchasing, advertising, marketing, research, safety and health, personnel management, employee benefits, labor relations, public relations, and government relations.</li> <li>• Administrative duties do not include routine or structured tasks such as bookkeeping, data tabulation, or clerical duties.</li> </ul>	<input type="checkbox"/> YES <input type="checkbox"/> NO
3. Does the employee customarily and regularly exercise discretion and independent judgment related to management policies or the general business operations of the employer or the employer’s customers?	<input type="checkbox"/> YES <input type="checkbox"/> NO

If the answer to any of these questions is “no”, then the employee is non-exempt and must be paid in accordance with the Fair Labor Standards Act (FLSA).

**Do you recommend that this position be exempt from the overtime provisions of the Fair Labor Standards Act?**

Yes  No

If the answer is “Yes”, please provide justification below:

**COMPUTER**

To be classified as an exempt computer employee, an employee must be paid an hourly rate of \$21.00 or \$45,760 annual or higher; hold a position where primary position duties require work in computer systems analysis, computer programming, software engineering or similarly skilled work in the computer field.

1. Does the employee receive a salary of at least \$21.00 per hour or \$45,760 per year?	<input type="checkbox"/> YES <input type="checkbox"/> NO
2. Does the employee’s primary duty consist of the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3. Does the employee’s primary duty consist of the 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?	<input type="checkbox"/> YES <input type="checkbox"/> NO
4. Does the employee’s primary duty consist of the design, documentation, testing, creating, or modification of computer programs related to machine operating systems?	<input type="checkbox"/> YES <input type="checkbox"/> NO
5. Does the employee’s primary duty consist of a combination of the aforementioned duties, the performance of which requires the same level of skills?	<input type="checkbox"/> YES <input type="checkbox"/> NO

If the answer to any of these questions is “no”, then the employee is non-exempt and must be paid in accordance with the Fair Labor Standards Act (FLSA).

**Do you recommend that this position be exempt from the overtime provisions of the Fair Labor Standards Act?**

Yes  No

If the answer is “Yes”, please provide justification below:

**PROFESSIONAL - Learned or Creative**

To be classified as an FLSA exempt Learned or Creative Professional employee, the employee must be paid a weekly salary of \$840 or higher; hold a position with duties requiring advanced or very specialized education and training and that require the exercise of discretion and judgment, or; consist of work requiring invention, imagination or talent in a recognized field of artistic or creative endeavor.

1. Does the employee receive a salary of at least \$840 per week?	<input type="checkbox"/> YES <input type="checkbox"/> NO
2. Does the employee’s primary duty meet all of the following requirements for a “learned” professional? <ul style="list-style-type: none"> <li>• The employee performs work requiring advanced knowledge, defined as work which is predominantly intellectual in character.</li> <li>• The work requires the consistent exercise of discretion and judgment.</li> <li>• The advanced knowledge must be in a field of science or learning.</li> <li>• The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.</li> </ul>	<input type="checkbox"/> YES <input type="checkbox"/> NO
3. Does the employee’s primary duty qualify for a “creative” professional because it requires invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor? <ul style="list-style-type: none"> <li>• The exemption of the creative professional is highly dependent on the degree of invention, originality or talent that is exercised by the employee. As such, the exemption has to be done on a case-by-case basis (rather than by the job classification).</li> <li>• The work that is performed typically has to be highly conceptual where only a concept may be the starting point and must require a high degree of originality.</li> <li>• The creative professional exemption generally applies to actors, musicians, composers, painters, essayists, and screenwriters.</li> </ul>	<input type="checkbox"/> YES <input type="checkbox"/> NO

If the answer to questions number 1 and 2 or 1 and 3 is “no”, then the employee is non-exempt and must be paid in accordance with the Fair Labor Standards Act (FLSA).

**Do you recommend that this position be exempt from the overtime provisions of the Fair Labor Standards Act?**

Yes  No

If the answer is “Yes”, please provide justification below:



**FLSA EXEMPT STATUS RECOMMENDATION:**

Employee Name	Classification Title
Department	Salary
Department	<input type="checkbox"/> Full-Time <input type="checkbox"/> Part-Time

<b>Recommended Exemption Status for Classification:</b>	<b>If Exempt, applicable Exemption Category:</b>
<input type="checkbox"/> Exempt  <input type="checkbox"/> Non-Exempt	<input type="checkbox"/> Executive exemption <input type="checkbox"/> Administrative exemption <input type="checkbox"/> Computer exemption <input type="checkbox"/> Professional exemption

**Option 1: No Change Necessary**

After evaluation, no change to pay, duties, hours or FLSA status is necessary. Employee meets both the Duties and Salary Threshold Test.

**Option 2: Raise Salary**

After evaluation, employee meets the exempt duties test and regularly works more than 40 hours per week. Employees' salary does not meet the Salary Threshold Test and should be increased. After considerable evaluation, the cost to pay overtime on a regular basis exceeds the increased cost to raise the employee's salary.

Salary Recommendation: \_\_\_\_\_

**Option 3: Pay Overtime (*Change to Non-Exempt*)**

After evaluation, employee does not meet the exempt duties test and/or the salary threshold test. Position should be non-exempt and eligible for overtime in excess of 40 hours per week.

**COMMENTS:**

FORM COMPLETED BY:	DATE COMPLETED:
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