

# Exempt vs. Non-Exempt Checklist

FLSA Checklist: Exempt vs. Nonexempt Status  
All criteria must be met under the Exempt Status Category

Employee Name: \_\_\_\_\_ Date: \_\_\_\_\_

Job Title: \_\_\_\_\_ Job Class: \_\_\_\_\_

## Executive Employee

1. Is the employee's primary duty managing the enterprise or a department or subdivision of the enterprise?  Yes  No
  
2. Does the employee customarily direct (supervise) two or more other employees or their equivalent (i.e. 4 part-time employees)?  Yes  No  
 Does the employee have authority to hire or fire, and do his/her recommendations carry significant weight if unauthorized to make the final decision?
  
3. Is the employee paid the equivalent of at least \$455 (\$23,660 annually) per week on a salary basis?  Yes  No

## Administrative 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 customer?  Yes  No

\*Work "directly related to management or general business operations" includes, but is not limited to, work in functional areas such as tax; finance; accounting; budgeting; auditing; insurance; quality control; purchasing; procurement; advertising; marketing; research; safety and health; personnel management; human resources; employee benefits; labor relations; public relations; government relations; computer network, Internet and database administration; legal and regulatory compliance; and similar activities.

2. Does the employee exercise discretion and independent judgment with respect to matters of significance? That is, does he/she evaluate and compare possible courses of action and then make a decision or recommendation after considering the various possibilities.

\*Discretion and Independent Judgment implies that the employee has authority to make an independent choice, free from immediate direction or supervision.

Factors to consider include, but are not limited to:

- Whether the employee has authority to formulate, affect, interpret, or implement management policies or operating practices;  Yes  No
  
- Whether the employee carries out major assignments in conducting the operations of the business;  Yes  No
  
- Whether the employee performs work that affects business operations to a substantial degree;  Yes  No
  
- Whether the employee has authority to commit the employer in matters that have significant financial impact;  Yes  No

The term "matters of significance" refers to the level of importance or consequence of the work performed. An employee does not exercise discretion and independent judgment with respect to matters of significance merely because the employer will experience financial losses if the employee fails to perform the job properly. Similarly, an employee who operates very expensive equipment does not exercise discretion and independent judgment with respect to matters of significance merely because improper performance of the employee's duties may cause serious financial loss to the employer.

Whether the employee has authority to waive or deviate from established policies and procedures without prior approval, and other factors set forth in regulation.  Yes  No

3. Is the employee paid the equivalent of at least \$455 (\$23,660 annually) per week on a salary basis?  Yes  No

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### **Computer Professional Employee**

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?  Yes  No

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  Yes  No

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  Yes  No

Design, testing, documentation, creation or modification of computer programs related to machine operating systems; or  Yes  No

A combination of the aforementioned duties requiring the same level of skills?  Yes  No

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### **Outside Sales Employee**

1. Is the worker's primary duty making outside sales?  Yes  No

2. Does he/she regularly work away from the company's place of business?  Yes  No

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 the facilities?  Yes  No

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### **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?  Yes  No

2. Is the advanced knowledge obtained by completing an academic course of study resulting in a four-year degree or leading to certification?  Yes  No

3. Is the employee paid the equivalent of at least \$455 (\$23,660 annually) per week on a salary basis?  Yes  No

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**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?  Yes  No
2. Does the work require more than intelligence, diligence and accuracy (i.e. does it require "talent")?  Yes  No
3. Is the employee paid the equivalent of at least \$455 (\$23,660 annually) per week? on a salary basis?  Yes  No