

Fact Sheet #17C: Exemption for Administrative Employees Under the Fair Labor Standards Act (FLSA)

This fact sheet provides general information on the exemption from minimum wage and overtime pay provided by Section 13(a)(1) of the Fair Labor Standards Act as defined by Regulations, 29 CFR Part 541.

The FLSA requires that most employees in the United States be paid at least the federal minimum wage for all hours worked and overtime pay at time and one-half the regular rate of pay for all hours worked over 40 hours in a workweek.

However, Section 13(a)(1) of the FLSA provides an exemption from both minimum wage and overtime pay for employees employed as bona fide executive, administrative, professional and outside sales employees. Section 13(a)(1) and Section 13(a)(17) also exempt certain computer employees. To qualify for exemption, employees generally must meet certain tests regarding their job duties and be paid on a salary basis at not less than \$455 per week. Job titles do not determine exempt status. In order for an exemption to apply, an employee's specific job duties and salary must meet all the requirements of the Department's regulations.

See other fact sheets in this series for more information on the exemptions for executive, professional, computer and outside sales employees, and for more information on the salary basis requirement.

Administrative Exemption

To qualify for the administrative employee exemption, all of the following tests must be met:

- The employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week;
- The employee's primary duty must be the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and
- The employee's primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

Primary Duty

"Primary duty" means the principal, main, major or most important duty that the employee performs.

Determination of an employee's primary duty must be based on all the facts in a particular case, with the major emphasis on the character of the employee's job as a whole.

Directly Related to Management or General Business Operations

To meet the "directly related to management or general business operations" requirement, an employee must perform work directly related to assisting with the running or servicing of the business, as distinguished, for example from working on a manufacturing production line or selling a product in a retail or service establishment. 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.

Employer's Customers

An employee may qualify for the administrative exemption if the employee's primary duty is the performance of work directly related to the management or general business operations of the employer's customers. Thus, employees acting as advisors or consultants to their employer's clients or customers — as tax experts or financial consultants, for example — may be exempt.

Discretion and Independent Judgment

In general, the exercise of discretion and independent judgment involves the comparison and the evaluation of possible courses of conduct and acting or making a decision after the various possibilities have been considered. The term must be applied in the light of all the facts involved in the employee's particular employment situation, and 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; whether the employee carries out major assignments in conducting the operations of the business; whether the employee performs work that affects business operations to a substantial degree; whether the employee has authority to commit the employer in matters that have significant financial impact; whether the employee has authority to waive or deviate from established policies and procedures without prior approval, and other factors set forth in the regulation. The fact that an employee's decisions are revised or reversed after review does not mean that the employee is not exercising discretion and independent judgment. The exercise of discretion and independent judgment must be more than the use of skill in applying well-established techniques, procedures or specific standards described in manuals or other sources.

Matters of Significance

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.

Educational Establishments and Administrative Functions

The administrative exemption is also available to employees compensated on a salary or fee basis at a rate not less than \$455 a week, or on a salary basis which is at least equal to the entrance salary for teachers in the same educational establishment, and whose primary duty is performing administrative functions directly related to academic instruction or training in an educational establishment. Academic administrative functions include operations directly in the field of education, and do not include jobs relating to areas outside the educational field. Employees engaged in academic administrative functions include: the superintendent or other head of an elementary or secondary school system, and any assistants responsible for administration of such matters as curriculum, quality and methods of instructing, measuring and testing the learning potential and achievement of students, establishing and maintaining academic and grading standards, and other aspects of the teaching program; the principal and any vice-principals responsible for the operation of an elementary or secondary school; department heads in institutions of higher education responsible for the various subject matter departments; academic counselors and other employees with similar responsibilities. Having a primary duty of performing administrative functions directly related to academic instruction or training in an educational establishment includes, by its very nature, exercising discretion and independent judgment with respect to matters of significance.

Highly Compensated Employees

Highly compensated employees performing office or non-manual work and paid total annual compensation of \$100,000 or more (which must include at least \$455 per week paid on a salary or fee basis) are exempt from the

FLSA if they customarily and regularly perform at least one of the duties of an exempt executive, administrative or professional employee identified in the standard tests for exemption.

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

When the state laws differ from the federal FLSA, an employer must comply with the standard most protective to employees. Links to your state labor department can be found at www.dol.gov/whd/contacts/state_of.htm.

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

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Washington, DC 20210

1-866-4-USWAGE
TTY: 1-866-487-9243
Contact Us

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Main Menu

When Congress enacted the FLSA, it created an exemption from the minimum wage and overtime pay requirements for "any employee employed in a bona fide executive, administrative, or professional capacity or in the capacity of outside salesman." Congress did not define these terms but instead granted authority to the Secretary of Labor to do so. Because your definitions of these terms may not match DOL's definitions, you may want to first review the Fact Sheet for a particular exemption to learn more about it or you may want to review the [occupational index](#) for help in determining which section to use. Please remember that to qualify for an exemption, an employee must meet specific duties tests **and**, in most cases, minimum compensation requirements.

Please be aware that the Advisor may not be able to address every employment situation. Rather, the Advisor is designed to help employees and employers understand the general application of these regulations. You may want to review [Fact Sheet 17A: Exemption for Executive, Administrative, Professional, Computer and Outside Sales Employees Under the FLSA](#) to help determine whether this Advisor applies to your employment situation. Please select one of the sections below:

Compensation Requirements

This section helps you in understanding the compensation requirements for a particular employee to be exempt from the minimum wage and overtime pay requirements of the FLSA.

- [Review Fact Sheet](#)
- [Start Compensation Requirements section](#)

Executive Employee section

This section helps you in determining whether a department manager who supervises other employees meets the duties tests for exemption from the minimum wage and overtime pay requirements of the FLSA.

- [Review Fact Sheet](#)
- [Start Executive Employee section](#)

Administrative Employee section

This section helps you in determining whether a particular employee who works in a management or general business function (e.g., Human Resources, Accounting) meets the duties tests for exemption from the minimum wage and overtime pay requirements of the FLSA.

- [Review Fact Sheet](#)
- [Start Administrative Employee section](#)

Professional Employee section

This section helps you in determining whether a particular employee who performs work in a recognized professional field (e.g., law, medicine, science, music, art, teaching) meets the duties tests for exemption from the minimum wage and overtime pay requirements of the FLSA.

- [Review the Fact Sheet](#)
- [Start Professional Employee section](#)

Computer-Related Occupations section

This section helps you in determining whether a particular employee who performs work in the computer field meets the duties tests for exemption from the minimum wage and overtime pay requirements of the FLSA.

- [Review the Fact Sheet](#)
- [Start Computer-Related Occupations section](#)

Outside Sales Employee section

This section helps you in determining whether a particular employee who is an outside sales person meets the tests for exemption from the minimum wage and overtime pay requirements of the FLSA.

- [Review the Fact Sheet](#)
- [Start Outside Sales Employee section](#)

Occupational Index

This section helps you in determining which section of the Advisor to use.

- [Browse the Occupational Index](#)

Exemptions

Some employees are exempt from the overtime pay provisions, some from both the minimum wage and overtime pay provisions and some from the child labor provisions of the Fair Labor Standards Act (FLSA). Exemptions are narrowly construed against the employer asserting them. Consequently, employers and employees should always closely check the exact terms and conditions of an exemption in light of the employee's actual duties before assuming that the exemption might apply to the employee. The ultimate burden of supporting the actual application of an exemption rests on the employer.

Exemptions are typically applied on an individual workweek basis. Employees performing exempt and non-exempt duties in the same workweek are normally not exempt in that workweek.

Following is a list of some of the more commonly used exemptions. This list is not intended to be all-inclusive. By clicking on the underlined text below, you will be linked to information on the exemption. Other, less commonly used FLSA exemptions, are listed after this section.

COMMONLY USED EXEMPTIONS

Commissioned sales employees of retail or service establishments are exempt from overtime if more than half of the employee's earnings come from commissions *and* the employee averages at least one and one-half times the minimum wage for each hour worked. You may also wish to [review the applicable regulation](#).

Computer professionals: Section 13(a)(17) of the FLSA provides that certain computer professionals paid at least \$27.63 per hour are exempt from the overtime provisions of the FLSA.

Drivers, driver's helpers, loaders and mechanics are exempt from the overtime pay provisions of the FLSA if employed by a motor carrier, and if the employee's duties affect the safety of operation of the vehicles in transportation of passengers or property in interstate or foreign commerce. You may also wish to [review the applicable regulation](#).

Farmworkers employed on small farms are exempt from both the minimum wage and overtime pay provisions of the FLSA. You may also wish to [review the specific regulation](#). Young workers employed on small farms, with parental consent, are also exempt from the child labor provisions of the FLSA. For more information on exemptions from the [child labor provisions](#) of the FLSA in agriculture, click the underlined text. Other farmworkers are exempt from the FLSA's overtime provisions. You may also wish to [review the specific regulation](#).

Salesmen, partsmen and mechanics employed by automobile dealerships are exempt from the overtime pay provisions of the FLSA. You may also wish to [review the applicable regulation](#).

Seasonal and recreational establishments: Employees employed by certain seasonal and recreational establishments are exempt from both the minimum wage and overtime pay provisions of the FLSA. You may also wish to [review the applicable regulation](#).

Executive, administrative, professional and outside sales employees: (as defined in Department of Labor regulations) and who are paid on a salary basis are exempt from both the minimum wage and overtime provisions of the FLSA.

OTHER FLSA EXEMPTIONS

(MW = minimum wage OT = overtime CL = child labor)

- Aircraft salespeople - OT
- Airline employees - OT
- Amusement/recreational employees in national parks/forests/Wildlife Refuge System - OT
- Babysitters on a casual basis - MW & OT
- Boat salespeople - OT
- Buyers of agricultural products - OT
- Companions for the elderly - MW & OT
- Country elevator workers (rural) - OT
- Workers with disabilities - MW
- Domestic employees who live-in - OT
- Farm implement salespeople - OT
- Federal criminal investigators - MW & OT
- Firefighters working in small (less than 5 firefighters) public fire departments - OT

- Fishing - MW & OT
- Forestry employees of small (less than 9 employees) firms - OT
- Fruit & vegetable transportation employees - OT
- Homeworkers making wreaths - MW, OT & CL
- Houseparents in non-profit educational institutions- OT
- Livestock auction workers - OT
- Local delivery drivers and driver's helpers - OT
- Lumber operations employees of small (less than 9 employees) firms - OT
- Motion picture theater employees - OT
- Newspaper delivery - MW, OT & CL
- Newspaper employees of limited circulation newspapers - MW & OT
- Police officers working in small (less than 5 officers) public police departments - OT
- Radio station employees in small markets - OT
- Railroad employees - OT
- Seamen on American vessels - OT
- Seamen on other than American vessels - MW & OT
- Sugar processing employees - OT
- Switchboard operators - MW & OT
- Taxicab drivers - OT
- Television station employees in small markets - OT
- Truck and trailer salespeople - OT
- Youth employed as actors or performers - CL
- Youth employed by their parents - CL

Note: For information about the application of these exemptions, contact your local Wage and Hour District Office.

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