EXECUTIVE EXEMPTION

1. Does the employee receive a weekly salary of more than $455.00?
   
   _____ YES (go to No. 2)  _____ NO - employee is NOT exempt

2. Is the employee paid on a salary basis (i.e., the employee regularly receives, each pay period, a predetermined amount which is not subject to reduction because of variations in the quality or quantity of the work performed)?
   
   _____ YES (go to No. 3)  _____ NO - employee is NOT exempt

3. Is the employee’s primary duty\(^1\) the management\(^2\) of the company, a formally established department or subdivision?\(^3\)
   
   _____ YES (go to No. 4)  _____ NO - employee is NOT exempt

4. Does the employee customarily and regularly direct two (2) or more other full-time employees or several part-time employees working hours equal to two (2) full-time employees?
   
   _____ YES (go to No. 5)  _____ NO - employee is NOT exempt

5. Does the employee have the power and authority to hire, fire, promote, etc., employees and to make managerial and supervisory decisions or are the employee’s suggestions regarding such decisions given particular weight?
   
   _____ YES – employee IS exempt  _____ NO - employee is NOT exempt

Source: 29 C.F.R. § 541.100 \textit{et seq.}, 29 C.F.R. § 541.602 and 29 C.F.R. § 541.700 \textit{et seq.}

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\(^1\) Primary duty means the duty that is the principal, main, major or most important duty that the employee performs.

\(^2\) Management includes: interview, select and train and discipline employees, set and adjust employees’ rates of pay and hours of work, direct employees work, maintain production or sales records for use in supervision or control, appraise productivity and efficiency, handle complaints and grievances plan the work and determine techniques to be used, assign the work, determine the materials, supplies, machinery or tools to be used or merchandise to be purchased, stocked or sold, control the distribution of materials or merchandise and supplies and provide for the safety and security of others and the property, plan and control the budget, monitor or implement legal compliance measures etc.

\(^3\) Factors to consider include: the relative importance of the exempt duties as compared with other types of duties; the amount of time spent performing exempt work; the employee’s relative freedom from direct supervision; and the relationship between the employee’s salary and the wages paid to other employees for the kind of nonexempt work performed by the employee.
ADMINISTRATIVE EXEMPTION

1. Does the employee receive a weekly salary of more than $455.00?
   
   _____ YES (go to No. 2)  _____ NO - employee is NOT exempt

2. Is the employee paid on a salary basis (i.e., the employee regularly receives, each pay period, a predetermined amount which is not subject to reduction because of variations in the quality or quantity of the work performed)?

   _____ YES (go to No. 3)  _____ NO - employee is NOT exempt

3. Is the employee’s primary duty the performance of nonmanual or office work directly related to the management or general business operations (i.e., work directly related to the running or servicing of the business)?

   _____ YES (go to No. 4)  _____ NO - employee is NOT exempt

4. Does the employee’s primary duty include the exercise of discretion and independent judgment with respect to matters of significance or makes recommendations for action to someone at a higher level?

   _____ YES – employee IS exempt  _____ NO - employee is NOT exempt

Source: 29 C.F.R. § 541.200 et seq., 29 C.F.R. § 541.602 and 29 C.F.R. § 541.700 et seq.

1 Examples include: work in a functional area 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; etc.

2 The exercise of discretion and independent judgment includes the comparison and evaluation of courses of conduct, and making a decision after considering the various possibilities and must be more than the use of skill in applying established techniques, procedures or standards described in manuals or other sources.

3 Factors to consider include whether the employee: has the authority to formulate, affect, interpret, or implement management policies or operating practices; carries out major assignments in conducting the operations of the business; performs work that affects business operations to a substantial degree, even if the employee’s assignments are related to operation of a particular segment of the business; has authority to commit the employer in matters that have significant financial impact; has authority to waive or deviate from established policies/procedures; has authority to negotiate and bind the company on significant matters; provides consultation or expert advice to management; is involved in planning long-term or short-term business objectives; investigates and resolves matters of significance on behalf of management; and represents the company in handling complaints, arbitrating disputes or resolving grievances.
COMPUTER EMPLOYEES EXEMPTION

1. Does the employee receive a weekly salary of more than $455.00 or paid on an hourly basis?
   
   _____ YES (go to No. 2)  _____ NO - employee is NOT exempt

2. Is the employee paid on a salary basis (i.e., the employee regularly receives, each pay period, a predetermined amount which is not subject to reduction because of variations in the quality or quantity of the work performed) or paid on an hourly basis at a rate of at least $27.63 per hour?
   
   _____ YES (go to No. 3)  _____ NO - employee is NOT exempt

3. Does the employee's primary duty\(^1\) consist of: (1) the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications; (2) 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; (3) the design, documentation, testing, creation or modification of computer programs related to machine operating systems; or (4) a combination of these duties, the performance of which requires the same level of skills?
   
   _____ YES – employee IS exempt  _____ NO - employee is NOT exempt

Source: 29 C.F.R. § 541.400 et seq., 29 C.F.R. § 541.602 and 29 C.F.R. § 541.700 et seq.

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\(^{1}\) Primary duty means the duty that is the principal, main, major or most important duty that the employee performs.
PROFESSIONAL EXEMPTION

1. Does the employee receive a weekly salary of more than $455.00?
   _____ YES (go to No. 2)     _____ NO - employee is NOT exempt

2. Is the employee paid on a salary basis (i.e., the employee regularly receives, each pay period, a predetermined amount which is not subject to reduction because of variations in the quality or quantity of the work performed)?
   _____ YES (go to No. 3)     _____ NO - employee is NOT exempt

3. Is the employee’s primary duty the performance of 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 – employee IS exempt  _____ NO (go to No. 4)

4. Is the employee’s primary duty the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor?
   _____ YES – employee IS exempt  _____ NO - employee is NOT exempt

Source: 29 C.F.R. § 541.300 et seq., 29 C.F.R. § 541.602 and 29 C.F.R. § 541.700 et seq.

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1 Work requiring advanced knowledge includes work that is predominately intellectual in character. This includes work that requires the consistent exercise of discretion and judgment rather than the performance of routine mental, manual, mechanical or physical work. This type of employee generally uses his/her advanced knowledge to analyze, interpret or make deductions from varying facts or circumstances.

2 A field of science or learning includes: law; medicine; theology; accounting; actuarial computation; engineering; architecture; teaching; physical, biological and chemical sciences; pharmacy and other similar occupations that have a recognized professional status.

3 This exemption includes those professions which require specialized academic training. It also includes employees in those professions which require specialized academic training who have obtained substantially the same knowledge level and perform substantially the same work as the degreed employees, but who attained the advanced knowledge through a combination of work experience and intellectual instruction.

4 This exemption is generally met by actors; musicians; composers; conductors; soloists; painters who at most are given the subject matter of their painting; cartoonists who are merely told the title or underlying concept of a cartoon and must rely on their own creative ability to express the concept; essayists; novelists; short-story writers; screenwriters who chose their own subjects; and persons holding the more responsible writing positions in advertising agencies.

5 A recognized field of artistic or creative endeavor includes fields such as music, writing, acting and the graphic arts.