

## Fair Pay Fact Sheet by Exemption Under the Fair Labor Standards Act (FLSA)

Job titles do not determine exempt status. Employees are considered exempt if they meet **both** (1) **all** of the requirements of **one** of the following Job Basis Exemption Tests and (2) the Salary Basis Exemption Test.

### Job Basis Exemption Tests

#### Executive Exemption

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

- The employee must be compensated on a [salary basis](#) (as defined in the regulations) at a rate not less than \$455 per week [whether part-time or full-time];
- The employee's **primary** duty must be managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise;
- The employee must customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; **and**
- The employee must have the authority to hire or fire other employees; or the employee's suggestions and recommendations as to the hiring, firing, advancement, promotion, or any other change of status of other employees must be given particular weight.

#### 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 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.**

#### Professional Exemption

-- To qualify for the **learned professional** employee exemption, all of the following tests must be met:

- The employee must be compensated on a [salary 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 work requiring advanced knowledge, defined as work which is predominantly intellectual in character and which includes work requiring the consistent exercise of discretion and judgment;
- The advanced knowledge must be in a field of science or learning; **and**
- The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

-- To qualify for the **creative professional** employee exemption, all of the following tests must be met:

- The employee must be compensated on a [salary basis](#) (as defined in the regulations) at a rate not less than \$455 per week; **and**
- The employee's **primary** duty must be the performance of work requiring invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor.

#### Computer Employee Exemption

To qualify for the computer employee exemption, the following tests must be met:

- The employee must be compensated **either** on a [salary basis](#) (as defined in the regulations) at a rate not less than \$455 per week **or**, if compensated on an hourly basis, at a rate not less than \$27.63 an hour;
- The employee must be employed as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer field performing the duties described below; **and**
- The employee's **primary** duty must 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 the aforementioned duties, the performance of which requires the same level of skills.

### Salary Basis Exemption Test

For employees to be considered exempt, they must be paid on a salary basis of not less than \$455 each week, regardless of whether their employment status is full-time or part-time. This salary requirement does not apply to employees whose primary duties are teaching, practicing law or medicine, or outside sales.

- For more information on FLSA, go to <http://www.dol.gov/compliance/laws/comp-flsa.htm>
- For assistance in applying FLSA exemption tests, contact your [Human Resource Generalist](#).