

Exempt vs. Non Exempt Duties Test

This duties test will help you with the initial analysis of a position being considered for exemptions under the FLSA ruling. Job titles are not a sufficient way to determine exempt status, and you should perform the duties test as a preliminary step in your determination.

This is a tool to support your analysis and it is recommended that you consult legal counsel to review your exemption decisions.

An exempt employee who meets the requirements below must also earn an annual salary of \$58,656 or (\$1,128.00 per week) as of January 1, 2025. The salary must not be subject to reduction because of variations in the quality or quantity of the work they perform.

Executive Exemption

(Examples: Chief officer, Controller, Vice President, Director)

An employee whose primary duties are to manage the organization or an organizational unit, and who meets both of the following conditions:

1. Customarily and regularly direct the work of two or more employees.
(Customarily and regularly means more than occasionally, but may mean less than all of the time). And
2. Must have the authority to hire or terminate other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion, or any other

Administrative Exemption

(Examples: Manager, Supervisor, Administrator)

An employee whose primary duties meet 1, 2, and at least one from

Section 3 below.

1. The work performed is office or non-manual in nature; and
2. The work performed directly relates to the management or general business operations of the office or its customers: and
3. The worker must exercise discretion and independent judgment with respect to matters of significance. (One or more must be met).
 - a. Has the authority to formulate, affect, interpret, implement management policies or operating practices:
 - b. Carries out major assignments in conducting the operations of the organization;
 - c. Performs work that affects the organization's operations to a substantial degree, even if the employee's assignments are related to operation of a particular segment of the organization;
 - d. Has the authority to commit the employer in matters that have significant financial impact;
 - e. Has the authority to waive or deviate from established policies and procedures without prior approval;
 - f. Has the authority to negotiate and bind the organization on significant matters;
 - g. Provides consultation or expert advice to management;
 - h. Is involved in planning long- or short-term organizational objectives;
 - i. Investigates and resolves matters of significance on behalf of management;
 - j. Represents the organization in handling complaints, arbitrating disputes, or resolving grievances;
 - k. Provide a representative duty or responsibility of the position that matches or is equivalent to those provided above.

Outside Sales Exemption

If an employee meets the requirements below to be classified as an outside sales this exemption does not have a base salary requirement, and a commission-only pay structure is allowable.

An employee whose primary duties are to sell products and services in person, and who meets both of the following conditions:

1. Customarily and regularly travels to the customers or clients location to sell the products or services (Customarily and regularly means more than occasionally, but may mean less than all of the time). And
2. Customarily and regularly works away from their home and/or the employer's place of business.

The information shared in this document is a summary of the FLSA Duties test published in the U.S. Department of State website.

Reference:

www.shrm.org - FLSA Exemption Questionnaire

Administrative Exemption

Outside Sales Exemption

Next Steps:

Speak with a member of our team regarding your company's wage requirements and 2025 budget: <https://club.capital/schedule-a-demo/>

Review your state requirements for 2025:

<https://www.dol.gov/agencies/whd/minimum-wage/state>

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The contents of this document are not considered to be legal advice.