



## **FLSA exemption checklist**

**Effective January 1, 2020**

FLSA exemptions from minimum wage requirements are applicable to the types of employees listed below if their job duties satisfy all these criteria:

### **Executives**

- Have management of the enterprise or of a customarily recognized department or subdivision of the enterprise as their primary duty (29 USC 213; 29 CFR 541.100; 29 CFR 541.700)
- Customarily and regularly direct the work of two or more other employees (29 CFR 541.100; 29 CFR 541.104)
- Have the authority to hire or fire other employees or make suggestions and recommendations as to the employment status of others that are given particular weight (29 CFR 541.100; 29 CFR 541.105)
- Are compensated on a salary basis at a rate of at least \$684 per week (29 CFR 541.100; 29 CFR 541.602)

### **Administrative workers**

- Perform office or nonmanual work directly related to the management policies or general business operations of their employer or their employer's customers, or perform administrative functions directly related to academic instruction or training in an educational establishment (29 USC 213; 29 CFR 541.200)
- Regularly exercise discretion and independent judgment with respect to matters of significance (29 CFR 541.200; 29 CFR 541.202)
- Are compensated on a salary basis at a rate of at least \$684 per week (29 CFR 541.200; 29 CFR 541.602)

### **Learned professionals**

- Perform work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction (29 USC 213; 29 CFR 541.301)
- Exercise of discretion and judgment (29 CFR 541.301)
- Are compensated on a salary basis at a rate of at least \$684 per week (except doctors, lawyers, and teachers) (29 CFR 541.301)

### **Creative professionals**

- Perform work requiring invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor (29 USC 213; 29 CFR 541.302)
- Are compensated on a salary basis at a rate of at least \$684 per week (29 CFR 541.302)



## Computer employees

- Are employed as computer systems analysts, computer programmers, software engineers, or other similarly skilled workers in the computer field (29 CFR 541.400)
- Perform work of the following types: (A) application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications; or (B) 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 (C) design, documentation, testing, creation, or modification of computer programs related to machine operating systems; or (D) a combination of duties described in (A), (B), and (C), the performance of which requires the same level of skills (29 CFR 541.400)
- Are compensated on a salary basis at a rate of at least \$684 per week or \$27.63 per hour (29 CFR 541.400)

## Outside sales workers

- Engage in making sales or obtaining orders or contracts for services or the use of facilities for which consideration will be paid by the client or customer (29 CFR 541.500; 29 CFR 541.501)
- Are customarily and regularly engaged away from the employer's place or places of business (29 CFR 541.500; 29 CFR 541.502)

### **Note: Fee basis**

Administrative and professional employees may be paid on a fee basis rather than a salary basis. To determine whether the fee payment meets the minimum salary threshold, the amount paid to the employee should be tested by determining the time worked on the job and whether the fee payment is at a rate that would amount to at least \$684 per week if the employee worked 40 hours.

### **Note: Bonuses**

Employers may use nondiscretionary bonuses and incentive payments, including commissions, that are paid annually or more frequently to satisfy up to 10 percent of the standard salary level. If an employee does not earn enough in nondiscretionary bonus or incentive payments in a given year to retain his or her exempt status, an employer may make a catch-up payment within one pay period of the end of the 52-week period. This payment may be up to 10 percent of the total standard salary level for the preceding 52-week period.