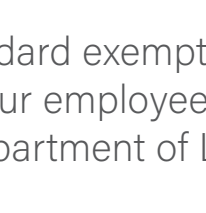




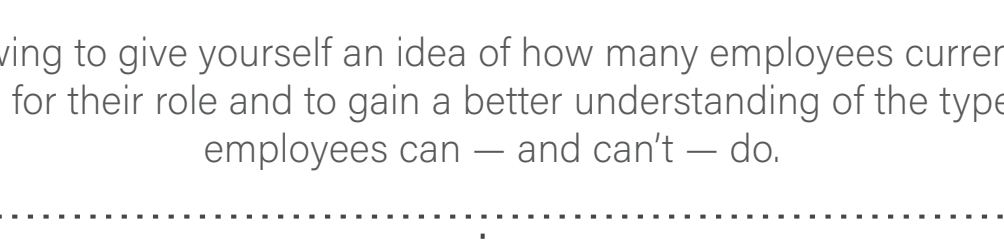
EXEMPT FROM OVERTIME?

PUT YOUR EMPLOYEES TO THE TEST



Understanding which employees meet standard exemption criteria under the **Fair Labor Standards Act's** job duties tests — and classifying your employees accordingly — can help your company survive a Department of Labor audit.

Exempt positions are excluded from minimum wage and overtime regulations; protections afforded nonexempt workers. They are paid a salary rather than an hourly wage.



Salaried

Hourly

Use the following to give yourself an idea of how many employees currently meet the exemption criteria for their role and to gain a better understanding of the type of work exempt employees can — and can't — do.



WHEN EVALUATING YOUR EMPLOYEES

REMEMBER

- » Job titles **DO NOT** determine status.
- » Employees must satisfy **ALL** the requirements of a specific role to pass the duties test for that role.

EXECUTIVE EXEMPTION DUTIES TEST



Applies to employees whose primary job duties include tasks like managing processes, production, departments, employees, scheduling, budgeting and compliance.

- 1 DOES THIS MANAGER MAKE OR INFLUENCE WORKFORCE DECISIONS?**
Such as the hiring, termination or promotion of employees?
- 2 DOES THIS MANAGER REGULARLY DIRECT THE WORK OF AT LEAST TWO FULL-TIME EMPLOYEES?**
Here, "full-time" is defined as 40 hours.
- 3 WHEN THE MANAGER TAKES ON NONEXEMPT WORK, IS IT ON HIS OR HER OWN INITIATIVE?**
Generally, managers can perform nonexempt tasks without losing their exemption, as long as they're not directed to do so by a supervisor.

If you answered **NO** to any question, the employee you're evaluating may **NOT** be exempt as an executive.

ADMINISTRATIVE EXEMPTION DUTIES TEST



Applies to employees whose primary duties include nonmanual work that's directly related to the running or servicing of a business.

- 1 DOES THIS EMPLOYEE HAVE OPERATIONAL AUTHORITY?**
Can he/she deviate from procedure, implement new policies or commit the company to action regarding significant business matters?
- 2 DOES THE EMPLOYEE WORK IN ANY OF THE FOLLOWING DEPARTMENTS?**
 - » finance, insurance or auditing
 - » operations, purchasing, quality control, human resources or compliance
 - » marketing, advertising or public relations
 - » computer network, internet or database administration
- 3 DOES THE EMPLOYEE EXERCISE INDEPENDENT JUDGMENT?**
Does the employee have the power to formulate and implement solutions, without having to consult or follow well-established procedures and techniques?

If you answered **NO** to any question, the employee you're evaluating may **NOT** be exempt as an administrative professional.

LEARNED PROFESSIONALS EXEMPTION DUTIES TEST



Employees' career fields, the source of their professional knowledge and how they apply that knowledge influence the bases for the learned professionals test.

- 1 DOES THE EMPLOYEE PERFORM WORK REQUIRING ADVANCED KNOWLEDGE, WHICH IS REQUIRED BY AN ACADEMIC DEGREE?**
- 2 DOES THE EMPLOYEE USE HIS OR HER ADVANCED KNOWLEDGE BASE TO ANALYZE DIFFERENT SITUATIONS AND FORMULATE SOLUTIONS, WITHOUT HAVING TO RELY ON WELL-ESTABLISHED TECHNIQUES OR PROCEDURES?**
- 3 IS THE EMPLOYEE GENERALLY CONSIDERED A PROFESSIONAL AND NOT A SKILLED WORKER?**
Does he/she work in a field of science or learning, such as:
 - » law
 - » medicine
 - » accounting
 - » teaching
 - » engineering
 - » science
 - » architecture

If you answered **NO** to any question, the employee you're evaluating may **NOT** be exempt as a learned professional.

REMEMBER: Just because an employee works in a professional field doesn't necessarily mean the exemption applies. This is because either the employee's work is routine in nature, or the employee's knowledge base is not the result of specialized academic training or intellectual instruction.

OCCUPATIONS THAT TYPICALLY

SATISFY

THE LEARNED PROFESSIONALS EXEMPTION

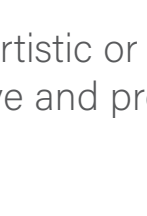
- attorneys
- chefs
- engineers
- accountants

DON'T SATISFY

THE LEARNED PROFESSIONALS EXEMPTION

- paralegals and legal assistants
- cooks
- engineering technicians
- clerks and bookkeepers

CREATIVE PROFESSIONALS EXEMPTION DUTIES TEST

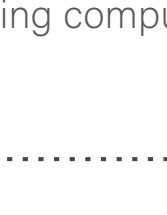


This exemption applies to workers in artistic or creative fields, whose job duties require them to be inventive and produce original work.

- 1 DOES THE EMPLOYEE WORK IN A CREATIVE OR ARTISTIC FIELD?**
Such as music, writing, acting or graphic arts?
- 2 DOES THE EMPLOYEE USE IMAGINATION OR PERSONAL TALENT TO CREATE ORIGINAL WORK?**
Actors, musicians, composers, certain painters, writers, cartoonists and novelists usually meet the requirements under the creative professionals' exemption duties test.

If you answered **NO** to any question, the employee you're evaluating may **NOT** be exempt as a creative professional.

COMPUTER EMPLOYEE EXEMPTION DUTIES TEST



Employees who generally meet this requirement spend most of their time designing, analyzing, programming and developing computer programs and systems.

- 1 DOES THE EMPLOYEE ANALYZE, DESIGN, CREATE, DEVELOP OR TEST SYSTEMS OR PROGRAMS?**
Employees who are highly dependent on computers or computer-aided design programs to complete their work — and employees who manufacture or repair computer hardware — typically do not meet this requirement.
- 2 DOES THE EMPLOYEE WORK AS AN ANALYST, PROGRAMMER OR ENGINEER?**

If you answered **NO** to any question, the employee you're evaluating may **NOT** be exempt as a computer employee.

Understanding which employees are exempt under the duties test is just one essential component of a comprehensive strategy to lessen compliance risk.

Using Paycom to help you keep track of the job descriptions you create, hours worked, overtime and more is another. Request a demo today.



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SOURCES

Cornell Law School, "29 CFR § 541.106 Concurrent Duties," Legal Information Institute, law.cornell.edu.
United States Department of Labor, Wage and Hour Division, "Fact Sheet: Notice of Proposed Rulemaking to Update the Regulations Defining and Delineating the Exemption for Executive, Administrative and Professional Employees," dol.gov/whd/overtime/FSOT2019.pdf.

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