

Overtime Exemptions Checklist - Federal

Employee Name _____

Job Title _____

Date _____

NOTE: If the employee qualifies for any one of the following exemptions, then they can be classified as "exempt."

Yes	No	Section I – Salary Basis (Subpart G)
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- (1) Is the employee paid on a salary basis at a rate of at least \$684 per week (\$35,568 per year), exclusive of board, meals, and lodging?
- (2) Is the employee a computer professional compensated at an hourly rate of at least \$27.63 per hour?
- (3) Does the employee earn \$107,432 or more annually?

If you answered **"NO" to question 1**, the employee does not meet the minimum salary requirement and is automatically eligible for overtime pay.

If you answered **"YES" to question 1**, proceed to Section II of this form: "Executive, Administrative, Professional, & Outside Sales Duties Tests."

If you answered **"YES" to questions 1 and 2**, proceed to Section III of this form: "Computer Employee Exemption."

If you answered **"YES" to question 3**, proceed to Section IV of this form: "Highly Compensated Employees."

Yes	No	Section II – Executive, Administrative, Professional, & Outside Sales Duties Tests
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Executive Exemption (Subpart B)

- (1) Is the employee's primary duty the management of the enterprise or of a customarily recognized department or subdivision?
- (2) Does the employee customarily and regularly direct the work of two or more other full-time employees?
- (3) Does the employee have the authority to hire or fire other employees? If not, are their suggestions and recommendations as to the hiring, firing, advancement, promotion, or any other change of status of other employees given "particular weight"?

If you answered **"NO" to any of these three questions**, the employee does not qualify for the executive exemption. Proceed to the next duties test.

If you answered **"YES" to all three questions**, the employee qualifies for the exemption as a "bona fide executive employee."

Administrative Exemption (Subpart C)

- (1) Is the employee's *primary duty* 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?
- (2) Does the employee's *primary duty* include the exercise of *discretion and independent judgment* with respect to matters of significance?
- (3) Is the employee's *primary duty* performing *administrative functions* directly related to academic instruction or training in an educational establishment?

If you answered **"NO" to all of these questions**, the employee does not qualify for the administrative exemption. Proceed to the next duties test.

If you answered **"NO" to questions 2 and 3**, the employee does not qualify for the administrative exemption. Proceed to the next duties test.

If you answered **"YES" to questions 1 and 2**, the employee qualifies for the general administrative exemption.

If you answered **"YES" to questions 1 or 2 and "YES" to question 3**, the employee qualifies as an exempt academic administrative employee.

Yes	No	Section II – Continued
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Professional Exemption (Subpart D)

- (1) **Learned Professional** – Does the employee’s *primary duty* require knowledge of an advanced type in a field of science or learning customarily acquired by a *prolonged course of specialized intellectual instruction or a combination of intellectual instruction and work experience*?
- (2) **Creative Professional** – Does the employee’s *primary duty* require invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor?
- (3) **Teachers** – Is the employee’s *primary duty* teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge in an educational establishment where he/she is employed?
- (4) **Doctors and Lawyers** – Does the employee *practice law or medicine* and hold a valid license or certificate permitting him/her to practice law or medicine?

If you answered “**NO**” to all of these questions, the employee does not qualify for the professional exemption.

If you answered “**YES**” to question 1, the employee qualifies for the professional exemption as a “bona fide learned professional.”

If you answered “**YES**” to question 2, the employee qualifies for the professional exemption as a “bona fide creative professional.”

If you answered “**YES**” to question 3, the employee qualifies for the exemption as a teacher.

If you answered “**YES**” to question 4, the employee qualifies for the exemption as a doctor or lawyer.

Outside Sales Exemption (Subpart F)

- (1) Is the employee’s *primary duty* making sales or obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer?
- (2) Is the employee *customarily and regularly* engaged away from your place of business in performing his/her primary duty?

If you answered “**NO**” to either question, the employee is not eligible for the outside sales exemption.

If you answered “**YES**” to both questions, the employee qualifies for the exemption as an outside sales employee.

Yes	No	Section III – Computer Employee Exemption (Subpart E)
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- (1) Is the employee a *computer systems analyst, computer programmer, software engineer, or other similarly skilled worker* in the field of computers?
- (2) Does the employee’s *primary duty* consist of any of the following?
 - a. The application of systems analysis techniques and procedures to determine the specifications of systems, hardware, or software.
 - b. The design, development, analysis, creation, testing, documentation, or modification of computer systems or programs.
 - c. The design, testing, creation, documentation, or modification of computer programs related to machine operating systems.
 - d. Any combination of a, b, and c.

If you answered “**YES**” to questions 1 and 2, the employee is an exempt computer employee.

If you answered “**NO**” to either question, the employee is not an exempt computer employee.

Yes	No	Section IV – Highly Compensated Employees (29 C.F.R. 541.601)
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- (1) Does the employee perform office or non-manual work?
- (2) Does the employee perform at least one exempt duty under the Administrative, Executive, or Professional criteria? (See Section II above)

If you answered “**NO**” to either question, the employee does not qualify for the highly compensated employee exemption.

If you answered “**YES**” to both questions, the employee qualifies for the highly compensated employee exemption.

This form was completed by:

Supervisor or HR Representative Signature

Date

Overtime Exemptions Checklist - Federal Instructions

The Fair Labor Standards Act (FLSA) regulates federal overtime provisions. Unless considered “exempt,” all employees covered by the FLSA must receive overtime pay for hours worked over 40 in a workweek. The rate received as overtime is not to be less than time and one-half their regular pay rates. All employers can use the **Overtime Exemptions Checklist** to determine whether a new or existing salaried employee legally qualifies as “exempt” from overtime.



Why It's Important

Under the FLSA and existing overtime regulations, employers are allowed to classify certain employees as “exempt” from overtime pay if they are paid on a salary basis, make a certain salary amount, and perform specific white-collar job duties. According to previous Department of Labor (DOL) estimates, over 70% of employers are not fully compliant with wage and hour laws, including existing overtime exemption regulations. *Non-compliance with overtime regulations can result in fines, back pay, front pay, loss of overtime exemptions, damages, and penalties.*



Instructions for Use

The Overtime Exemptions Checklist was created to help employers ensure full compliance with existing federal regulations. Employers should always verify any other additional state laws they need to adhere to. Each checklist contains the various areas of compliance included under the current overtime rules. This allows you to be sure that your employees are classified under the proper exemption.



When to Use

Employers should use the checklist to determine whether new or existing employees qualify as “exempt” or “non-exempt” status under the Fair Labor Standards Act (FLSA). **(Note: Various states have more stringent requirements for exempt status. Employers should verify if they need to make additional assessments under state wage & hour laws.)** The checklist should be completed on all new hires before a job offer is extended to check if the position qualifies for an exemption. The checklist should also be completed if an employee receives a promotion or a change of job position and responsibilities. Additionally, employers can use this checklist to audit and verify the FLSA exempt status of any existing salaried employee under federal law.



Retention Requirements

Once completed, the checklist should be kept in the employee’s personnel file for the length of their employment in that position. The FLSA requires employers to keep all payroll records for three years. However, maintaining the checklists for up to five years after termination could serve as evidence of proper employee classification in the case of litigation. Certain states may have longer minimum retention period requirements. Employers should verify any different requirements with their specific state.