

## FLSA Exemption Test Worksheet

Executive, Teaching, Professional, Administrative, and Computer Exemption Tests

*Federal law provides that certain employees may be exempt from the overtime wage provisions of the Fair Labor Standards Act (FLSA) under the following exemption categories: EXECUTIVE, TEACHING, PROFESSIONAL, ADMINISTRATIVE, or COMPUTER.*

*In order for an employee to qualify as being EXEMPT from overtime, and thus not be required to be paid at one and one-half his or her regular salary for hours worked in excess of 40 per workweek, an employee must qualify under one of the exemption categories.*

**The Office of Human Resources should be consulted in determining the exemption status of each position.** Exemption status is determined by completing the following test based on each position's duties, level of responsibility and decision making authority, and the employee's base pay rate.

Employee Name	ID Number	Date Form Completed
Actual Position Title	Job Code in UltiPro	Current Class in UltiPro (Exempt or Non-Exempt)
Location	Form Completed By	Date Position Description Last Updated

### Position Classification Recommendation (to be completed after evaluation) :

- |   |   |
|---|---|
| <input type="checkbox"/> Exempt Executive             | <input type="checkbox"/> Exempt Creative Professional |
| <input type="checkbox"/> Exempt Teaching Professional | <input type="checkbox"/> Exempt Administrative        |
| <input type="checkbox"/> Exempt Learned Professional  | <input type="checkbox"/> Exempt Computer              |
| <input type="checkbox"/> Non-exempt                   |   |

### INSTRUCTIONS

1. Read the criteria for each exemption category: Executive, Professional (teaching, learned or creative), Administrative, and Computer as detailed below.
2. Place an "x" in each box that applies to this position. Give specific and detailed answers to the questions asked. After checking the relevant boxes and providing detailed answers, please make a recommendation in the exempt or non-exempt box.
3. Please note that the employee must also meet the **"Salary Basis Test"** to be exempt under the FLSA. *They must be paid on a salary basis, not subject to reduction based on quality or quantity of work.* The employee must also meet the **"Salary Level Test"** (for all except the Teaching Professional exemption). If the employee in the position earns less than the required minimum salary for exemption (\$965 per week), the employee is considered non-exempt and is subject to the overtime provisions of the FLSA even if the position's duties meet the duties test for exemption.

## EXECUTIVE

To be classified as an FLSA exempt executive employee, the employee must hold a position requiring that they regularly perform duties which consist of the management of a location or customarily recognized department, regularly supervise and direct two or more FTE employees, and must have authority to hire or fire other employees or their suggestions as to such are given particular weight, and the employee must be paid a weekly salary of \$965 or higher.

1. Does the employee receive a salary of at least \$965 per week and receive this pay on a consistent salary basis?	<input type="checkbox"/> <b>YES</b> <input type="checkbox"/> <b>NO</b> If no, stop. The employee is not FLSA exempt.
2. Does the employee's position's primary duty consist of managing a department or subdivision, which has a permanent status and continuing function? It is a good "rule of thumb" for the primary duty to take about 50% of the worker's time. However, time alone is not the only consideration. Other factors to consider include: <ul style="list-style-type: none"><li>• The relative importance of the exempt duties compared to the nonexempt duties.</li><li>• The amount of time spent performing exempt duties.</li><li>• The worker's freedom from direct supervision.</li><li>• The relationship between the worker's salary and wages paid to other employees for the same kind of exempt work.</li></ul>	<input type="checkbox"/> <b>YES</b> <input type="checkbox"/> <b>NO</b>
3. Does the employee customarily and regularly direct the work of two or more FTE employees or their equivalent?	<input type="checkbox"/> <b>YES</b> <input type="checkbox"/> <b>NO</b>
4. Does the employee have the authority to hire or fire other employees or are the employee's suggestions and recommendations as to hiring, firing, advancement, promotion or any other change of status of other employees given particular weight? ("Particular weight" means this requirement is defined as a responsibility in the employee's job duties (Position Description) and it is not an occasional requirement).	<input type="checkbox"/> <b>YES</b> <input type="checkbox"/> <b>NO</b>

If the answer to any of these questions is "no", then the employee does not meet the "Executive" exemption requirements. However, they may meet either the "Administrative" or "Professional" exemption requirements.

**Do you recommend that this position be exempt from the overtime provisions of the Fair Labor Standards Act?**

☐ **Yes**   ☐ **No**

If the answer is "Yes", please provide justification below:

## PROFESSIONAL - Teaching

To be classified as an FLSA exempt Teaching Professional, the only exemption category where the employee is not subject to a weekly minimum salary, the employee must be employed in a bona fide professional capacity in a position with the primary duties of teaching, tutoring, instructing or lecturing in the activity of imparting knowledge; requiring advanced, very specialized education and training, or a prolonged course of specialized intellectual instruction; and, who is employed and engaged in this activity as a teacher in an educational establishment by which the employee is employed.

<p>1. Does the employee's primary duty meet all of the following requirements for a "teaching" professional?</p> <ul style="list-style-type: none"><li>• Employed in a bona fide professional capacity in a position with the primary duties of teaching, tutoring, instructing or lecturing in the activity of imparting knowledge.</li><li>• Employed and engaged to perform in this activity as a teacher in an educational establishment by which the employee is employed.</li><li>• The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.</li></ul>	<p><input type="checkbox"/> YES   <input type="checkbox"/> NO</p> <p>If no, stop. The employee does not qualify for FLSA exemption under this category.</p>
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If the answer to any of this questions is "no", then the employee does not qualify for exemption under this category and must be paid in accordance with the Fair Labor Standards Act (FLSA).

**Do you recommend that this position be exempt from the overtime provisions of the Fair Labor Standards Act?**

☐ Yes      ☐ No

If the answer is "Yes", please provide justification below:

## PROFESSIONAL - Learned or Creative

To be classified as an FLSA exempt Learned or Creative Professional employee, the employee must be paid a weekly salary of \$965 or higher; hold a position with duties requiring advanced or very specialized education and training and that require the exercise of discretion and judgment, or; consist of work requiring invention, imagination or talent in a recognized field of artistic or creative endeavor.

1. Does the employee receive a salary of at least \$965 per week and receive this pay on a consistent salary basis?	<input type="checkbox"/> <b>YES</b> <input type="checkbox"/> <b>NO</b> If no, stop. The employee is not FLSA exempt.
2. Does the employee's primary duty meet all of the following requirements for a "learned" professional? <ul style="list-style-type: none"><li>• The employee performs work requiring advanced knowledge, defined as work which is predominantly intellectual in character.</li><li>• The work requires the consistent exercise of discretion and judgment.</li><li>• The advanced knowledge must be in a field of science or learning.</li><li>• The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.</li></ul>	<input type="checkbox"/> <b>YES</b> <input type="checkbox"/> <b>NO</b>
3. Does the employee's primary duty qualify for a "creative" professional because it requires invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor? <ul style="list-style-type: none"><li>• The exemption of the creative professional is highly dependent on the degree of invention, originality or talent that is exercised by the employee. As such, the exemption has to be done on a case-by-case basis (rather than by the job classification).</li><li>• The work that is performed typically has to be highly conceptual where only a concept may be the starting point and must require a high degree of originality.</li><li>• The creative professional exemption generally applies to actors, musicians, composers, painters, essayists, and screenwriters.</li></ul>	<input type="checkbox"/> <b>YES</b> <input type="checkbox"/> <b>NO</b>

If the answer to questions number 1 and 2 or 1 and 3 is "no", then the employee is non-exempt and must be paid in accordance with the Fair Labor Standards Act (FLSA).

**Do you recommend that this position be exempt from the overtime provisions of the Fair Labor Standards Act?**

☐ **Yes**   ☐ **No**

If the answer is "Yes", please provide justification below:

## ADMINISTRATIVE

To be classified as an FLSA exempt administrative employee, the employee must be paid a weekly salary of \$965 or higher; hold a position where primary position duties require the exercise of discretion and independent judgment and the performance of office or non-manual work related to the management policies or general business operations of the employer or the employer's customers.

1. Does the employee receive a salary of at least \$965 per week and receive this pay on a consistent salary basis?	<input type="checkbox"/> <b>YES</b> <input type="checkbox"/> <b>NO</b> If no, stop. The employee is not FLSA exempt.
2. Does this employee perform work that is directly related to assisting with the running of the business or act as an advisor or consultant to the employer's clients or customers? Consider the following factors and definitions when determining whether an employee performs administrative duties: <ul style="list-style-type: none"><li>• Administrative operations of the business include advising management, planning, negotiating, representing the company, purchasing, promoting sales, and business research and control.</li><li>• These activities frequently include: tax, finance, accounting, audit, insurance, quality control, purchasing, advertising, marketing, research, safety and health, personnel management, employee benefits, labor relations, public relations, and government relations.</li><li>• Administrative duties do not include routine or structured tasks such as bookkeeping, data tabulation, or clerical duties.</li></ul>	<input type="checkbox"/> <b>YES</b> <input type="checkbox"/> <b>NO</b>
3. Does the employee customarily and regularly exercise discretion and independent judgment related to management policies or the general business operations of the employer or the employer's customers?	<input type="checkbox"/> <b>YES</b> <input type="checkbox"/> <b>NO</b>

If the answer to any of these questions is "no", then the employee is non-exempt and must be paid in accordance with the Fair Labor Standards Act (FLSA).

**Do you recommend that this position be exempt from the overtime provisions of the Fair Labor Standards Act?**

☐ **Yes**   ☐ **No**

If the answer is "Yes", please provide justification below:

## COMPUTER

To be classified as an exempt computer employee, an employee must be paid an hourly rate of \$27.63 or \$57,470 annual or higher; hold a position where primary position duties require work in computer systems analysis, computer programming, software engineering or similarly skilled work in the computer field.

1. Does the employee receive a salary of at least \$27.63 per hour or \$57,470 per year?	<input type="checkbox"/> <b>YES</b> <input type="checkbox"/> <b>NO</b> If no, stop. The employee is not FLSA exempt.
2. Does the employee's primary duty consist of the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications?	<input type="checkbox"/> <b>YES</b> <input type="checkbox"/> <b>NO</b>
3. Does the employee's primary duty consist of 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?	<input type="checkbox"/> <b>YES</b> <input type="checkbox"/> <b>NO</b>
4. Does the employee's primary duty consist of the design, documentation, testing, creating, or modification of computer programs related to machine operating systems?	<input type="checkbox"/> <b>YES</b> <input type="checkbox"/> <b>NO</b>
5. Does the employee's primary duty consist of a combination of the aforementioned duties, the performance of which requires the same level of skills?	<input type="checkbox"/> <b>YES</b> <input type="checkbox"/> <b>NO</b>

If the answer to any of these questions is "no", then the employee is non-exempt and must be paid in accordance with the Fair Labor Standards Act (FLSA).

**Do you recommend that this position be exempt from the overtime provisions of the Fair Labor Standards Act?**

☐ **Yes**   ☐ **No**

If the answer is "Yes", please provide justification below: