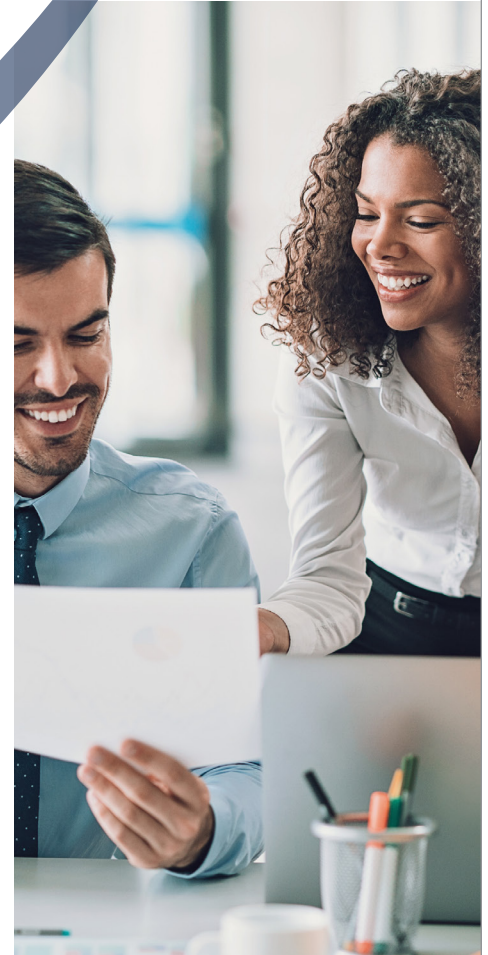




FLSA Exempt Status Checklist



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Although most business owners are familiar with the concepts of minimum wage and overtime pay, many make the dangerous assumption that they don't have to dig deeper than the basics. As you rush to fill positions and pay employees on time, you might overlook crucial details like employee FLSA status, state-specific regulations, or lesser-known recent legislations like Fair Workweek (FWW) rules.

Even a tiny oversight in this area can be very costly. If you mistakenly underpay your employees for a few years and they seek legal recourse for unpaid overtime you didn't know they were owed, the cumulative damages could be crippling.

To help you avoid this and other potentially costly scenarios use this checklist as a general starting point or guidance when determining whether an employee is exempt. Since it is important for you to understand FLSA thoroughly when completing this checklist, we recommend you work with a qualified labor law consultant.

☐ **Salary Basis Test**

Employee is paid a fixed salary that is not subject to deduction for variations in the quality or quantity of work.

☐ **Salary Level Test**

Employee earns at least \$684 per week. (Note: This amount is subject to updates; always verify the current threshold.)

Blue Collar & First Responder Test

☐ Employee is not a "blue collar" non-management worker in production, maintenance, or construction such as a carpenter, electrician, mechanic, plumber, iron worker, craftsman, operating engineer, longshoreman, construction worker, or laborer.

☐ Employee does not perform work involving repetitive operations with their hands, physical skill, and energy.

☐ Employee is not a first responder of any kind.

Duties Test

Check only if the employee's primary role involves all the duties specific to one of the following exempt categories defined by the FLSA:

☐

Executive Exemption:

- Employee manages the business or a recognized department/subdivision.
- Regularly directs the work of at least two or more full-time employees or their equivalent.
- Has the authority to hire or fire employees, or their recommendations on employment decisions hold significant weight.

☐

Administrative Exemption:

- Employee performs office or non-manual tasks directly related to management policies or general business operations.
- Exercises discretion and independent judgment on significant matters.

☐

Learned Professional Exemption:

- Employee's work requires advanced knowledge, predominantly intellectual in character, and includes consistent exercise of discretion and judgment.
- This advanced knowledge is in a field of science or learning acquired through a prolonged course of specialized intellectual instruction.

☐

Creative Professional Exemption:

- Employee's primary duty is the performance of work requiring invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor.

☐

Computer Employee Exemption:

- Employed as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer field.

Employee's primary duties consist of:

- The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications.
- 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.
- The design, documentation, testing, creation, or modification of computer programs related to machine operating systems.

Or:

- A combination of the duties mentioned above, requiring the same level of skills.

☐ **Outside Sales Exemption:**

- Employee's primary duty must be making sales (as defined in the FLSA) 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.
- The employee must be customarily and regularly engaged away from the employer's place or places of business.

☐ **Highly Compensated Employees:**

- Employee performs office or non-manual work and is paid a total annual compensation of \$107,432 or more, which includes at least \$684 per week paid on a salary or fee basis.

☐ **Cross-Checked with Local and State Regulations:**

Employee classification also aligns with local and state laws, having taken any variances in exemption criteria into account.

Need more help in determining FLSA status? We can help.

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