

Employee Classification: Exempt or Non-Exempt?



field
of
practice

Is the employee's Primary Duty*...?

Executive Exemption

...management of the enterprise or of a customarily recognized department or subdivision of the business?

NO **YES**

Non-exempt

Does the employee customarily and regularly direct the work of 2 or more full-time employees or their equivalent?

NO **YES**

Non-exempt

Does the employee 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?

NO **YES**

Non-exempt

Does the employee earn at least \$684/wk paid on a salary basis?

NO **YES**

Non-exempt

Employee may be classified as exempt.

Practice Pointer:
Employees passing this exemption test should perform limited routine work.

Administrative Exemption

...performance of office or non-manual work directly related to management policies or general business operations of the employer or employer's customers?

NO **YES**

Non-exempt

Does the employee's primary duty require exercise of discretion and independent judgment with respect to matters of significance?

NO **YES**

Non-exempt

Does the employee earn at least \$684/wk paid on a salary basis?

NO **YES**

Non-exempt

Employee may be classified as exempt.

Practice Pointer:
This exemption test applies to staff positions often associated with, but not limited to, the following departments: finance, legal, marketing, human resources, information technology and compliance. Furthermore, employees passing this exemption test should perform limited routine work.

Learned Professional

...performance of work requiring advanced knowledge and is the work predominantly intellectual in character?

NO **YES**

Non-exempt

Does the employee consistently exercise discretion and independent judgment in carrying out primary duties?

NO **YES**

Non-exempt

Is the advanced knowledge and occupation in a field of science or learning?

NO **YES**

Non-exempt

Was the advanced knowledge acquired by a prolonged course of specialized intellectual instruction?

NO **YES**

Non-exempt

Does the employee earn at least \$684/wk paid on a salary basis?

NO **YES**

Non-exempt

Employee may be classified as exempt.

Practice Pointer:
This exemption test generally requires the job holder to have a specific educational degree in order to competently perform the job. Fields often include law, medicine, accounting, engineering and teaching. Fields do not include mechanical arts or skilled trades. Finally, employees passing this exemption test should perform limited routine work.

Creative Professional

...performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor?

NO **YES**

Non-exempt

Does the employee earn at least \$684/wk paid on a salary basis?

NO **YES**

Non-exempt

Employee may be classified as exempt.

Practice Pointer:
Generally recognized fields of "artistic or creative endeavor" include music, writing and acting. Employees passing this exemption test should perform limited routine work.

Practice Pointer:
This exemption test generally requires the job holder to have a specific educational degree in order to competently perform the job. Fields often include law, medicine, accounting, engineering and teaching. Fields do not include mechanical arts or skilled trades. Finally, employees passing this exemption test should perform limited routine work.

Outside Sales Exemption

...making sales or obtaining orders or contracts for services for the use of facilities for which consideration will be paid by the client or customer?

NO **YES**

Non-exempt

Is the employee customarily and regularly engaged away from the employer's place of business?

NO **YES**

Non-exempt

Employee may be classified as exempt.

Practice Pointer:
This exemption test does not apply to those performing inside sales work.

This document serves as a summary of the Fair Labor Standards Act (FLSA), as integrated with Illinois Minimum Wage Law. Additional exemptions are recognized in different states and industries.

***Primary Duty** means the principal, main, major or most important duty that the employee performs.

****Employers may satisfy up to 10% of this salary level using nondiscretionary bonus payments made on an annual or more frequent basis.**

