



# U.S. Department of Labor

## Employment Standards Administration Wage and Hour Division

### Fact Sheet #17: Exemption for Executive, Administrative, Professional, & Outside Sales Employees Under the Fair Labor Standards Act (FLSA)

This fact sheet provides general information concerning the exemption provided by Section 13(a)(1) of the FLSA as defined by Regulations, 29 CFR Part 541.

#### **Characteristics**

Section 13(a)(1) of the FLSA exempts executive, administrative, professional, and outside sales employees from the minimum wage and overtime requirements of the FLSA, provided they meet certain tests regarding job duties and responsibilities and are compensated "on a salary basis" at not less than stated amounts. Subject to certain exceptions set forth in the regulations, in order to be considered "salaried", employees must receive their full salary for any workweek in which they perform any work without regard to the number of days or hours worked. This rule applies to each exemption that has a salary requirement (outside sales employees, and certain licensed or certified doctors, lawyers and teachers have no salary requirement. For certain computer-related occupations under the professional exemption, they need not be paid a salary if they are paid on an hourly basis at a rate not less than \$27.63 per hour). The special requirements which apply to each category of employees are summarized below.

#### **Executive Exemption**

Applicable to employees who have management as their primary duty; who direct the work of two or more full-time employees; who have the authority to hire and fire or make recommendations regarding decisions affecting the employment status of others; who regularly exercise a high degree of independent judgment in their work; who receive a salary which meets the requirements of the exemption; and who do not devote more than 20% of their time to non-management functions (40% in retail and service establishments).

#### **Administrative Exemption**

Applicable to employees who perform office or non-manual work which is directly related to the management policies or general business operations of their employer or their employer's customers, or perform such functions in the administration of an educational establishment; who regularly exercise discretion and judgment in their work; who either assist a proprietor or executive, perform specialized or technical

work, or execute special assignments; who receive a salary which meets the requirements of the exemption; and who do not devote more than 20% of their time to work other than that described above (40% in retail and service establishments).

## **Professional Exemption**

Applicable to employees who perform work requiring advanced knowledge and education, work in an artistic field which is original and creative, work as a teacher, or work as a computer system analyst, programmer, software engineer, or similarly skilled worker in the computer software field; who regularly exercise discretion and judgment; who perform work which is intellectual and varied in character, the accomplishment of which cannot be standardized as to time; who receive a salary which meets the requirements of the exemption (except doctors, lawyers, teachers and certain computer occupations); and who do not devote more than 20% of their time to work other than that described above.

## **Outside Sales Exemption**

Applicable to employees who engage in making sales or obtaining orders away from their employer's place of business and who do not devote more than 20% of the hours worked by non-exempt employees of the employer to work other than the making of such sales.

## **Typical Problems**

Some problems and misconceptions which are commonly found in the application of the Section 13(a)(1) exemptions are:

- Employers without a formal sick leave policy docking salaried, exempt employees for time missed from work because of sickness.
- Employees not receiving full salary payments each week.
- Employees performing routine production type duties that seem related to general business operations but which have no bearing on setting of management policies.
- Employees who hold degrees performing jobs which are not professional in nature or to which the degree they hold is not applicable.
- Employers confusing acquired job skills with the exercise of independent judgment and discretion.
- Employees placed on salary and classified as exempt without regard to duties or percentage of time spent in exempt duties.

## **Where To Obtain Additional Information**

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

**For additional information, visit our Wage-Hour website:**

**<http://www.wagehour.dol.gov> and/or call our Wage-Hour toll-free information and helpline, available 8am to 5pm in your time zone, 1-866-4USWAGE (1-866-487-9243).**

**U.S. Department of Labor**  
Frances Perkins Building  
200 Constitution Avenue, NW  
Washington, DC 20210

1-866-4-USWAGE, TTY: 1-877-889-5627  
[Contact Us](#)