

# The my|HR|counsel Exempt Status Checkup™

Test Criteria	Yes	No	
<b>SALARY LEVEL</b>			
Is the Employee's salary greater than: <ul style="list-style-type: none"> <li>\$455/week or</li> <li>\$910 biweekly or</li> <li>\$1971.66 monthly or</li> <li>\$23,660 annually?</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	If the answer is 'No', the employee is not exempt.
<b>SALARY BASIS (must meet all 3)</b>			
Does the Employee regularly receive a predetermined amount of compensation each pay period on a weekly, or less frequent, basis?	<input type="checkbox"/>	<input type="checkbox"/>	If the answer to any of these questions is 'No', the employee is not exempt.
Is the compensation amount protected from reduction because of variations in the quality of the employee's work or the numbers of hours worked?	<input type="checkbox"/>	<input type="checkbox"/>	
Is the compensation protected from deductions if the employee is ready, willing and able to work, but no work is available?	<input type="checkbox"/>	<input type="checkbox"/>	
<b>JOB DUTIES</b>			
<p>The employee must meet <b><u>ALL</u></b> of the criteria under the category to qualify for the exemption.</p> <p><b>Primary Duty</b> is, when looking at the job as a whole, the principal, main, major or most important reason that the job exists. Employees who spend more than 50 percent of their time performing a specific duty will generally satisfy the primary duty requirement</p> <p>The employee can perform non-exempt work up to 20% of their work time.</p>			
<b>ADMINISTRATIVE (must meet both)</b>			
<b>1 Primary duty:</b>  Performs office or non-manual work directly related to management or general business operations (e.g.: tax, finance, accounting, budgeting, auditing, insurance, quality control, purchasing, procurement, advertising, marketing, public &/or government relations, research, safety & health, personnel management, benefits, human resources, labor relations, computer network, Internet and database administration, legal & regulatory compliance, etc.) of the employer or the employer's customers	<input type="checkbox"/>	<input type="checkbox"/>	If the answer to any of these questions is 'No', the employee is not exempt.
<b>2 Primary duty:</b>  Includes exercise of discretion and independent judgment (authority to formulate, affect, interpret, or implement management policies or operating practices; carries out major assignments in conducting the operations of the business; performs work that affects business operations to a substantial degree) with respect to matters of significance.	<input type="checkbox"/>	<input type="checkbox"/>	

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<b>PROFESSIONAL (must meet all 3)</b>			
1. Primary duty is performing work requiring advanced knowledge.	<input type="checkbox"/>	<input type="checkbox"/>	If the answer to any of these questions is 'No', the employee is not exempt.
2. Knowledge must be in field of science or learning (Accounting, Law, Teaching, Engineering, Biological, Chemical or Physical Sciences)	<input type="checkbox"/>	<input type="checkbox"/>	
3. Knowledge customarily acquired by a prolonged course of specialized intellectual instruction	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Computer-Related (must meet both)</b>			
1) Salary of \$455/week of, if compensated on an hourly basis, at a rate not less than \$27.63 an hour	<input type="checkbox"/>	<input type="checkbox"/>	If the answer to any of these questions is 'No', the employee is not exempt.
2) Employed as a computer systems analyst, computer programmer, software engineer or other similarly skilled worker in the computer field performing the primary duties described below: <ul style="list-style-type: none"> <li>• Application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications</li> <li>• 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</li> <li>• Design, documentation, testing, creation or modification of computer programs related to machine operating systems; or</li> <li>• Combination of aforementioned duties, performance of which requires the same level of skills</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Executive (must meet all 3)</b>			
<b>Overview</b>			
Exempt executive employees generally are responsible for the success or failure of business operations under their management. Other critical elements are (1) whether management is the employees primary duty, (2) whether the employee directs the work of two or more full-time equivalent employees, and (3) whether the employee has the authority to hire/fire other employees or, alternatively, whether the employees suggestions and recommendations as to the hiring, firing, advancement, promotion or other change of status of other employees are given particular weight.			
1) Primary duty is managing enterprise, or customarily recognized department or subdivision	<input type="checkbox"/>	<input type="checkbox"/>	If the answer to any of these questions is 'No', the employee is not exempt.
2) Customarily and regularly direct the work of at least 2+ full-time employees	<input type="checkbox"/>	<input type="checkbox"/>	
3) Hires or fires employees, or whose recommendations are given particular weight	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Educational Establishments and Administrative</b>			

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Primary duty is performing administrative functions (administration of such matters as curriculum, quality and methods of instructing, measuring and testing the learning potential and achievement of students, establishing and maintaining academic and grading standards, and other aspects of the teaching program OR department heads in institutions of higher education responsible for the various subject matter departments OR academic counselors and other employees with similar responsibilities) directly related to academic instruction or training in an educational establishment.	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Outside Sales (must meet at least 1) (Not subject to Salary Basis Test)</b>			
The employee's primary duty must be either:			
<ul style="list-style-type: none"> <li>• Making sales, which may include:                             <ul style="list-style-type: none"> <li>• the transfer of title to tangible property;</li> <li>• certain transfers of tangible and valuable evidences of intangible property; and</li> <li>• sales transactions, such as sales, exchanges, contracts for sale, shipments for sale, or other dispositions.</li> </ul> </li> </ul> <p style="margin-left: 20px;">OR</p>	<input type="checkbox"/>	<input type="checkbox"/>	If the answer to <b>both</b> of these questions is 'No', the employee is not exempt.
<ul style="list-style-type: none"> <li>• Obtaining orders or contracts for services or for the use of facilities for which the client or customer is paying.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Highly Compensated Employee (must meet both)</b>			
Earns at least \$100,000 in total annual compensation; and	<input type="checkbox"/>	<input type="checkbox"/>	If the answer to any of these questions is 'No', the employee is not exempt
Customarily and regularly performs one or more exempt duties of: <ul style="list-style-type: none"> <li>• an administrative employee</li> <li>• an executive employee, or</li> <li>• a professional employee.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	