

California - Executive Exemption Worksheet

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The information provided in these worksheets is based on California state exemption requirements as defined in the Industrial Wage Orders. More information on state guidelines is available on the California Division of Labor Standards Enforcement's Web site at <http://www.dir.ca.gov/dlse>. For federal regulations (29 CFR Part 541) visit the U.S. Department of Labor's Web site at <http://www.dol.gov>

Note: Federal and CA state laws differ. If covered by both the federal Fair Labor Standards Act (FLSA) and a CA labor code/wage order, then the employee must qualify under both exemptions to be exempt from overtime.

Check all that apply:

- This position is paid on a **salary basis** and earns a monthly salary equivalent of no less than two times the state minimum wage for **full-time employment**.

Note: The state minimum wage is dependent on the size of the employer. Beginning 1/1/2022, for employers with 26 or more employees the current state minimum wage is \$15.00 per hour. To determine the minimum monthly salary required, multiply the state minimum wage (\$15.00) by 2,080 hours, multiply by two, and divide by 12 months. The current minimum monthly salary is \$5,200.00.

Beginning 1/1/2022, for employers with 25 or fewer employees the state minimum wage is \$14.00 per hour. To determine the minimum monthly salary required, multiply the state minimum wage (\$14.00) by 2,080 hours, multiply by two, and divide by 12 months. The current minimum monthly salary is \$4,853.33.

- This position is **primarily engaged in** the management of the enterprise or of a customarily recognized department or subdivision.
- This position customarily and **regularly** directs the work of **two or more employees (or the equivalent)**.
- This position has the authority to hire or fire other employees, or the employee's suggestions and recommendations with respect to hiring, firing, advancement, promotion, or other change of status are given **particular weight**.
- This position regularly uses **discretion and independent judgment**.

In order to qualify for the executive exemption, all of the criteria listed above must be satisfied.

California - Administrative Exemption Worksheet

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Note: Federal and CA state laws differ. If covered by both the federal Fair Labor Standards Act (FLSA) and a CA labor code/wage order, then the employee must qualify under both exemptions to be exempt from overtime.

Check all that apply:

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This individual is **primarily engaged in:**

- office or non-manual work directly related to the **management policies or general business operations** of the employer or the employer's customers; or
- the administrative functions of a school system or educational establishment, or one of its departments or subdivisions, in work directly related to its academic instruction or training.

The position involves:

- **regularly** and directly assisting a proprietor or an employee in a bona fide executive or administrative capacity; or
- performing work under only general supervision along specialized or technical lines requiring technical training, experience, or knowledge; or
- executing special assignments and tasks under only general supervision.

This position is **primarily engaged in** work requiring the use of **discretion and independent judgment** with respect to **matters of significance**.

- In order to qualify for the administrative exemption, all of the criteria listed above must be satisfied, except that only one of the subsections under each main bullet need be satisfied (hence the use of the word "or").

California - Professional Exemption Worksheet

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Note: Federal and CA state laws differ. If covered by both the federal Fair Labor Standards Act (FLSA) and a CA labor code/wage order, then the employee must qualify under both exemptions to be exempt from overtime.

Check all that apply:

- This position is paid on a **salary basis*** and earns a monthly salary equivalent of no less than two times the state minimum wage for **full-time employment**.

Note: The state minimum wage is dependent on the size of the employer. Beginning 1/1/2022, for employers with 26 or more employees the current state minimum wage is \$15.00 per hour. To determine the minimum monthly salary required, multiply the state minimum wage (\$15.00) by 2,080 hours, multiply by two, and divide by 12 months. The current minimum monthly salary is \$5,200.00.

Beginning 1/1/2022, for employers with 25 or fewer employees the state minimum wage is \$14.00 per hour. To determine the minimum monthly salary required, multiply the state minimum wage (\$14.00) by 2,080 hours, multiply by two, and divide by 12 months. The current minimum monthly salary is \$4,853.33.

- The employee is licensed or certified by the state of California and is **primarily engaged in** the practice of law, medicine, dentistry, optometry, architecture, engineering, teaching, or accounting; **or** the employee is **primarily engaged in** an occupation commonly recognized as a **learned or artistic profession**.

- This position is **primarily engaged in** work requiring the use of **discretion and independent judgment** with respect to **matters of significance**.

In order to qualify for the professional exemption, all of the criteria listed above must be satisfied.

*An exception to the salary requirement exists for certain doctors. Licensed physicians or surgeons who are primarily engaged in performing duties for which the license is required are exempt from overtime if paid at least the minimum hourly rate set by the state.

Note: This rate is generally adjusted annually based on the CA Consumer Price Index for Urban Wage Earners and Clerical Workers. The current rate can be found on the CA Department of Industrial Relations web site (<https://www.dir.ca.gov/>).

California - Computer Software Employee Exemption Worksheet

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Note: Federal and CA state laws differ. If covered by both the federal Fair Labor Standards Act (FLSA) and a CA labor code/wage order, then the employee must qualify under both exemptions to be exempt from overtime.

Check all that apply:

- This position is paid on an hourly basis not less than the statutorily specified rate.
* or

The position is paid a monthly or annual salary of not less than the statutorily specified rates. *

- The employee is **primarily engaged in** work that is intellectual or creative.
- This position is **primarily engaged in** work requiring the use of **discretion and independent judgment** with respect to **matters of significance**.

- The employee is **primarily engaged in** work involving:

- 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 software programs, including prototypes based on and related to user or system design specifications;
- the documentation, creation, testing, or modification of computer programs related to the design of software for computer operating systems.

- This person is highly skilled and proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming, and software engineering. A job title shall not be determinative of the applicability of the exemption.

In order to qualify for the computer software employee exemption, all of the criteria listed above must be satisfied.

* The hourly statutory rate and the salary statutory rates are generally adjusted annually based on the CA Consumer Price Index for Urban Wage Earners and Clerical Workers. The current rates can be found on the CA Department of Industrial Relations web site (<http://www.dir.ca.gov>).

California - Outside Sales Exemption Worksheet

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Department of Labor's Web site at www.dol.gov. Note: federal and CA state laws differ. If covered by both the federal Fair Labor Standards Act (FLSA) and a CA labor code/wage order, then employee must qualify under both exemptions to be exempt from overtime.

Check all that apply:

- The employee is at least 18 years of age.
- The employee customarily and regularly works more than 50% of the time away from the employer's place of business selling tangible or intangible items, or obtaining orders or contracts for products, services, or for the use of facilities.

In order to qualify for the outside sales exemption, all of the criteria listed above must be satisfied. *

*CA law does not allow work performed incidental to and in conjunction with the employee's outside sales work, including incidental deliveries and collections, to be considered exempt work. This is particularly important for route salespeople and others who perform many functions each day other than sales (for example, delivery, repair, maintenance, etc.). To meet the outside sales exemption, such incidental work cannot exceed 50% of the employee's working time.

Definitions

Discretion and Independent Judgment

The person's duties involve comparing and evaluating various courses of action and making a decision after the possibilities have been considered. An employee with discretion and independent judgment must either have the authority to make decisions with respect to matters of significance without immediate supervision; or must be able to make a recommendation for action subject to final approval of a superior, provided the employee has sufficient authority for recommendations to affect matters of significance to the company or its customers.

Full-time Employment

40 hours each week (for these purposes).

Learned or Artistic Profession

An employee who is primarily engaged in the performance of:

- Work requiring **advanced knowledge** in a field of science or learning **customarily** acquired by a prolonged course of specialized intellectual instruction and study (or work that is an essential part of or necessarily incident to the work described above); or

Advanced Knowledge

Refers to work that is predominantly intellectual in nature. Generally, the knowledge is used to analyze, interpret, or make decisions based on the facts and circumstances of a particular situation. The level of knowledge cannot be attained at the high school level.

Customarily

Meaning the exemption may also be available to such professionals who may have the same knowledge level and perform substantially the same work as degreed professionals but attained the advanced knowledge through a combination of work experience and intellectual instruction. The regulation clarifies that this particular exemption does not apply to occupations in which most employees acquire their skill by experience rather than by advanced specialized intellectual instruction.

- Work that is original and creative in character in a recognized field of artistic endeavor, and the result of which depends primarily on invention, imagination, or talent of the employee (or work that is an essential part of or necessarily incident to the work described above); or
- Work that is predominantly intellectual in nature and the output produced or the result accomplished cannot be standardized in relation to a given period of time.

Management or General Business Operations

Refers to the type of work performed by the employee. The work must be directly related to running or servicing of the business. It does not include working on a production line or selling a product. Some examples of work that may relate to the management or general business operations include tax, finance, accounting, advertising, research, human resources, legal and regulatory compliance, etc.

Matters of Significance

Refers to the level of work or importance of work performed. Factors to consider include, but are not limited to, authority to develop, interpret, and implement management policies or operating practices; authority to commit the employer in matters that have significant financial impact on the business; authority to deviate from pre-established policies without prior approval; providing expert advice to management; involvement in long- and short-term business planning; investigating and resolving major issues on behalf of the company, etc.

Particular Weight

It is part of the employee's regular job duties to make suggestions. Factors to consider may include how often suggestions are made by this employee and how often the employee's suggestions are relied upon. The employee does not have to have the ultimate authority (in other words, a higher-level manager can review the suggestions), but making occasional recommendations generally would not meet the "particular weight" standard.

Primarily Engaged In

More than one half of the employee's work time is spent engaged in exempt work (that is, more than 50% of the employee's time must be spent performing exempt duties, work that is directly and closely related to exempt work, or work that is necessary as a means for carrying out exempt functions).

Regularly

More than occasionally (that is, a function the person would normally do every week). It does not include isolated or one-time tasks.

Salary Basis

Individual receives a predetermined amount of compensation each pay period, and such compensation may not be reduced because of variations in the quantity or quality of work performed. Additionally, certain deductions from this predetermined salary are prohibited.

Two or More Employees

Full-time employees (generally defined as working 40 hours each week) or the equivalent of two full-time employees (for example, one full-time and two part-time employees who each work 20 hours each week).

The preceding information is considered current as of the date of publication and is subject to change.