

Connecticut Department of Labor
Wage and Workplace Standards Division

Worksheet to Help Determine Exempt/Non-Exempt Status of Managerial or Executive Employees*

This analysis is meant only to be a guideline to assist in the determination of whether an employee or position is exempt or non-exempt from minimum wage, overtime, and record-keeping requirements under Connecticut law.

Position Title:

Name of Employee:

Primary Job Function:

Position Title of Person Supervising this Employee:

Department, Store, Facility, Etc. Managed by the Employee:

To be considered exempt, the employee must meet two sets of criteria, a "duties" test and a "salary" test.

- A. THE EMPLOYEE HAS THE FOLLOWING DUTIES:
1. PRIMARY DUTY CONSISTS OF THE MANAGEMENT OF THE ENTERPRISES IN WHICH HE/SHE IS EMPLOYED OR OF A CUSTOMARILY RECOGNIZED DEPARTMENT THEREOF.

Yes No If yes, give examples:

2. THE EMPLOYEE MUST HAVE THE AUTHORITY TO HIRE OR FIRE OTHER EMPLOYEES OR WHOSE SUGGESTIONS AND RECOMMENDATIONS AS TO THE HIRING OR FIRING AND AS TO THE ADVANCEMENT AND PROMOTION OR ANY OTHER CHANGE OF STATUS OF OTHER EMPLOYEES WILL BE GIVEN PARTICULAR WEIGHT.

Yes No If yes, give examples:

3. CUSTOMARILY AND REGULARLY EXERCISES DISCRETION AND INDEPENDENT JUDGMENT.

This involves the comparison and evaluation of alternatives by the employee and using his or her experience and judgment in selecting the best option. The terms imply that the employee has the power to make independent choice, free from immediate supervision. The decision may be implemented or may result in a recommendation subject to final authority, but the employee's recommendation must command serious attention. The decisions should pertain to matters of significance and affect matters of consequence to the business and/or its customers. The exercise of such discretion need not be constant, but should be done on a more-than-occasional basis.

Yes No If yes, give examples:

4. CUSTOMARILY AND REGULARLY DIRECTS TWO OR MORE PEOPLE.

Individuals who supervise employees only in the absence of the manager or who do not customarily and regularly direct the work of others are not considered exempt management or executive employees. However, these employees may still qualify under the administrative or professional exemption tests.

Yes No If yes, give examples:

B. EXEMPT DUTIES:

Exempt duties must be related directly and clearly to managerial responsibilities. The kinds of job responsibilities actually performed and not the job title or written job description, define an exempt employee. An employee usually cannot do exempt and non-exempt work at the same time. For example, an employee working as a manager, who simply answers a question while continuing to perform production or sales work, is not "engaged in" managerial duties, but is "occupied or involved in" production work. On the other hand, the time that such an employee clearly disengages from production or sales work to "engage in" managerial duties should be counted as exempt duties. At times an exempt manager may do non-exempt work such as using the computer to draft correspondence or to do performance evaluations. In these situations the important issue is whether or not the non-exempt function is necessary or a means to accomplish the exempt responsibilities. Examples of exempt duties when performed as a part of or in conjunction with overall management level responsibilities, include:

- Interviewing, selecting, hiring and training employees.
- Setting and adjusting pay rates and work hours or recommending same.
- Directing work.
- Keeping production records of subordinates for use in supervision.
- Evaluating employees' efficiency and productivity.
- Handling employees' complaints.
- Disciplining employees including termination, or recommendation to terminate.
- Planning work.

- Determining techniques to be used at work.
- Distributing work to others.
- Deciding on types of merchandise, materials, supplies, machinery, or tools.
- Controlling flow and distribution of merchandise, materials and supplies.
- Providing for safety of employees and property.
- Establishing strategy, making financial or marketing decisions, etc.

Below is a worksheet to help indicate whether or not an employee meets the "duties" test:

EXEMPT DUTY	WEEKLY HOURS SPENT AT EACH DUTY
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	

11. TOTAL WEEKLY HOURS SPENT AT EXEMPT DUTIES:

C. NON-EXEMPT DUTIES:

Some examples of non-exempt duties include:

- Performing the same kind of non-exempt work as subordinates.
- Performing any production work, even though unlike that performed by subordinates, which is not part of a supervisory function.
- Making sales, replenishing stocks, returning stock to shelves, other than for supervisory training or demonstration purposes.
- Performing routine clerical duties, such as bookkeeping, cashiering, billing, filing and operating business machines, other than for supervisory training or demonstration purposes.
- Performing routine maintenance work.

NON-EXEMPT DUTY

WEEKLY HOURS SPENT AT EACH DUTY

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.



11. TOTAL WEEKLY HOURS SPENT AT NON-EXEMPT DUTIES:

D. HOURS SUMMARY:

- 1. Total Number of Weekly Hours Worked (Total of B.11 and C.11) Hours
- 2. Total Number of Weekly Exempt Hours (B.11) Hours
- Exempt Hours as a % of the Total Hours (D.2 divided by D.1) Percent

E. SALARY TEST:

An hourly paid employee will not meet this requirement and can not be exempt, regardless of duties. Additional, an individual is not automatically exempt just because he or she is paid a salary. Salary is described as a fixed compensation regardless of hours worked.

1. Employee is paid at least \$400.00 per week salary.

Yes No

2. Employee is paid \$475.00 per week salary.

Yes No

3. Employee is paid \$455.00 per week salary. (Federal Law)

Yes No

"Salary basis" means a predetermined amount paid for each pay period on a weekly or less frequent basis, regardless of the number of days or hours worked, which amount is not subject to reduction because of variations in the quality or quantity of the work performed, and which amount has been the subject of an employer advisement as required by section 31-71f of the Connecticut General Statutes.

(1) Although the employee need not be paid for any workweek in which he performed no work, deductions may only be made in the following five (5) instances:

- (A) During the initial and terminal weeks of employment, an employer may pay a proportionate part of an employee's salary for the time actually worked;
- (B) Deductions may be made for one or more full days if the employee is absent for personal reasons other than sickness or accident;
- (C) Deductions may be made for one or more full days of sickness or disability provided the deduction is made pursuant to a bona fide plan, policy or practice of making deductions from an employee's salary after sickness or disability leave has been exhausted which has been disclosed to the employee in accordance with section 31-71f of the Connecticut General Statutes;
- (D) Deductions may be made for absences of less than one full day taken pursuant to the federal family and medical leave act, 29 USC 2601 et seq., or the Connecticut family and medical leave act, section 31-51kk et seq., of the Connecticut General Statutes, as permitted by 29 CFR 825.206 or by section 31-51qq-17 of the regulations of Connecticut state agencies; or

- (E) Deductions may be made for one or more full days if the employee is absent as a result of a disciplinary suspension for violating a safety rule of major significance. Safety rules of major significance include only those relating to the prevention of serious danger to the employer's premises, or to other employees.
- (2)(A) No deduction of any kind shall be made for any part of a workweek absence that is attributable to:
- (i) lack of work occasioned by the operating requirements of the employer;
 - (ii) jury duty, or attendance at a judicial proceeding in the capacity of a witness; or
 - (iii) temporary military leave.
- (B) An employer is permitted to offset payments an employee receives for any of the services described in this subdivision against the employee's regular salary during the week of such absence.
- (3) No deduction shall be made for an absence of less than one full day from work unless:
- (A) The absence is taken pursuant to the federal family and medical leave act, 29 USC 2601 et seq., or the Connecticut family and medical leave act, section 31-51kk et seq., of the Connecticut General Statutes, as permitted by 29 CFR 825.206 or by section 31-51qq-17 of the regulations of Connecticut state agencies; or
 - (B) The absence is taken pursuant to a bona fide paid time off benefits plan that specifically authorizes the substitution or reduction from accrued benefits for the time that an employee is absent from work, provided the employee receives payment in an amount equal to his guaranteed salary.
- (4) No deduction of any kind shall be made for an absence of less than one week which results from a disciplinary suspension for violating ordinary rules of employee conduct.

Will the employee's pay be reduced under other circumstances?

Yes No

F. INTERPRETING THE RESULTS

The position may be considered exempt if:

- (A) All questions under Part A were answered Yes and the salary is \$400.00 per week with no reductions.
- (B) Questions #1 and #4 under Part A were answered Yes and the salary is \$475.00 per week with no reductions.

Caution: This worksheet is intended to help employers in determining whether an executive employee is exempt from Connecticut's Administrative Regulations. Please contact the Wage and Workplace Standards Division at (860)263-6790 for more detailed assistance. The completion of this worksheet does not preclude an employee or the Labor Department from exercising their rights or authority under the law.