

(executive, administrative, or professional)

# Is your white-collar employee properly classified as exempt under FLSA overtime rule?

Take the test.

## 1 Salary Basis

Is the employee paid on a **fixed salary** meaning no variations depending on the quantity or the quality of deliverables?

Yes

## 2 Salary Level

Are they paid \$43,888? (\$844/week) or higher on a fixed salary?

Yes

## 3 Duties Test

Will they be paid above \$58,656 by January 1st 2025 (\$1128/week) on a fixed salary?

Yes

What category of duties does this employee's role fall under?

Professional

Executive

Administrative

Creative

Learned

Does their primary duty of work involve an advanced type of knowledge that must be obtained from prolonged instruction, in the field of science or learning, with consistent discretion and judgement?

Does their primary duty of work involve talent in a recognized field of artistic or creative endeavor (e.g. actors, musicians, composers, and writers)?

Do they manage the enterprise or a piece of it, regularly direct the work of a least two or more full-time employees, and have the authority to hire, fire, or influence the change of status of employees?

Is their primary duty to perform office or non-manual work related to management or operations while also having independent discretion and judgement in significant matters?

No

Does this employee work (or have the potential to work) over 40 hours a week?

No

Recommended to switch this employee to nonexempt status.

Yes

Great! Your employee is exempt from overtime pay under FLSA.

No

Unfortunately, your employee is not exempt from overtime pay. Explore these options.

### Consider these options!

1. If employees fall below the salary threshold, consider a pay increase.
2. If you can't increase their pay, convert this employee to nonexempt status and
  - a. manage overtime costs by reducing or eliminating hours that would be counted as overtime, or
  - b. reduce the base pay to allow for overtime.
3. If the employee still wants to be paid on a salary basis but does not meet the threshold, set the number of weekly hours to 40 for a set pay; the employee will still need to be paid time-and-one-half for work over 40 hours in a workweek.

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