

**Instructions:**

- Complete the Basis for Exemption section that best describes the job duties required for exempt status. All boxes under the Test must be checked to qualify.
- Onsite Supervisor must sign the form. NOTE: The test is for the position, not the person, unless an employee is changing to exempt status.
- Employee must read and sign the form ONLY if the employee is changing to exempt status.
- Submit the completed and signed form to your Tandem HR Representative.

**BASIS FOR EXEMPTION**

- Executive     Administrative     Professional     Outside Salesperson     Computer     Highly Compensated

**EXECUTIVE POSITION TEST (Supervisory)**

- Compensated at a rate not less than \$455 per week (CA\$ 640, AK \$572, CT \$475, NY \$536.10); **AND**
- Primary duty consists of managing an enterprise or a customarily recognized department or subdivision; **AND**
- Customarily and regularly directs work of at least two or more other full-time employees or their equivalent; **AND**
- Has the authority to hire or fire other employees, OR makes recommendations that carry particular weight as to the hiring, firing, advancement, promotion or any other change of status of other employees.

**Examples:** CEO, COO, President or executive vice president of functional areas or operating groups.

**ADMINISTRATIVE POSITION TEST**

- Compensated at a rate not less than \$455 per week; (CA\$ 640, AK \$572, CT \$475, NY \$536.10); **AND**
- Primary duty consists of performing office or non-manual work directly related to management or general business operations of the employer or its customers; **AND**
- Primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

**Examples:** Examples of exempt administrative employees may include executive assistants to the owner or president of a large business, high-level administrative assistants who have been delegated authority regarding matters of significance, assistant managers or buyers in retail or service establishments, advisory or tax specialists, insurance experts, sales research experts, wage-rate analysts, registered securities and investment consultants, registered stockbrokers, foreign exchange consultants, mortgage loan officers, employees who lead a team, human resources managers, management consultants, purchasing agents, and statisticians.

**COMPUTER POSITION TEST**

- Compensated either on a salary basis at a rate not less than \$455 per week or, if compensated on an hourly basis, at a rate not less than \$27.63 per hour; **AND**
- Employed as a computer systems analyst, computer programmer, software engineer or other similarly skilled worker in the computer field performing the duties described below; **AND**
- Primary duty consists of:
  - ✓ The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications; **OR**
  - ✓ The 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; **OR**
  - ✓ The design, documentation, testing, creation or modification of computer programs related to machine operating systems; **OR**
  - ✓ A combination of the aforementioned duties, the performance of which requires the same level of skills.

**Warning:** Employees who operate computers or who are engaged in the manufacture, repair, or maintenance of computer hardware do not qualify for exemption and remain eligible for overtime under FLSA. Information technology support specialist whose primary duty consists of installing, configuring, testing, and troubleshooting computer applications, networks, and hardware does not qualify for the computer employee or the administrative exemption (29 CFR Part 541.401).

**PROFESSIONAL POSITION TESTS (Learned OR Creative)**

**Learned Professional**

- Compensated at a rate not less than \$455 per week (CA\$ 640, AK \$572, CT \$475, NY \$536.10); NOTE: For teachers, licensed or certified practitioners of law and medicine, medical interns and residents covered under this exemption, the salary requirements do NOT apply; **AND**
- Primary duty consists of the performance of work requiring advanced knowledge, defined as work which is predominantly intellectual in character and consistently includes the exercise of discretion and independent judgment; **AND**
- Advanced knowledge is in a field of science or learning; **AND**
- Advanced knowledge is customarily acquired by a prolonged course of specialized intellectual instruction.

**Examples:** The professions that meet the requirement for a prolonged course of specialized intellectual instruction and study include law, medicine, theology, accounting, actuarial computation, engineering, architecture, teaching, various types of physical, chemical, and biological sciences, including pharmacy and registered or certified medical technology, and so forth. The typical symbol of the professional training and the best evidence of its possession is the appropriate academic degree. For example, CPA, physician assistants, registered nurses, chefs, lawyers teachers).

**Warning:** Licensed Practical Nurses (LPN) and other similar healthcare employees do not qualify as exempt regardless of work experience and training, as possession of a specialized advanced academic degree is not a standard prerequisite for entry into such occupations and remain eligible for overtime under the FLSA (29 CFR Part 541.301).

**Creative Professional**

- Compensated at a rate not less than \$455 per week; **AND**
- Primary duty consists of the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.

**Examples:** Musicians, composers, conductors, and soloists engaged in original and creative work. Painter, sculptor, cartoonist, journalist, writer.

**OUTSIDE SALESPERSON TEST**

- Primary duty consists of making sales (as defined in the FLSA), or obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer; **AND**
- Customarily and regularly engaged away from the employer's place or places of business.

**Examples:** Outside sales does not include sales made by mail, telephone, or the Internet unless such contact is used merely as an adjunct to in-person sales calls.

**HIGHLY COMPENSATED EMPLOYEES**

- Paid an annual total compensation of \$100,000 or more, which includes at least \$455 per week paid on a salary of fee basis.
- Primary duty consists of performing office, non-manual work. (NOTE: No matter how highly paid, manual workers or other blue collar workers who perform work involving repetitive operations with their hands, physical skill and energy are NOT eligible for this exemption.)
- Customarily and regularly performs at least one of the exempt duties or responsibilities of the Executive, Professional or Administrative Exemption.

**TO BE COMPLETED BY ONSITE SUPERVISOR (Complete if appropriate test is satisfied.)**

An exempt classification, as provided under wage and hour provisions of the Fair Labor Standards Act, is hereby claimed on the position of \_\_\_\_\_ and any incumbents of such position whose employment conditions may be affected by exempt classification status. The determination to classify this position in exempt status is based on direct observation of work performed, duties and responsibilities of the position as illustrated on the job description (attached the description), and the information provided above. I agree to notify Tandem HR promptly in writing: (1) if changes in the above statements make an exemption invalid, or (2) if a temporary assignment requires payment for overtime.

\_\_\_\_\_  
 ONSITE SUPERVISOR SIGNATURE REQUIRED

\_\_\_\_\_  
 DATE

**TO BE SIGNED BY EMPLOYEE ONLY IF CHANGING TO EXEMPT STATUS**

I understand and agree with the statements checked above as a basis for my exemption status, from requirements of the Fair Labor Standards Act. I will notify my Supervisor and Tandem promptly in writing: (1) if my duties changes in making my exemption status invalid, or (2) if a temporary assignment requires me to do non-exempt work.

\_\_\_\_\_  
 EMPLOYEE SIGNATURE REQUIRED

\_\_\_\_\_  
 DATE

\_\_\_\_\_  
 REVIEWED BY (Tandem HR Use Only)

\_\_\_\_\_  
 DATE

Exempt employees who are paid on a salary basis, in general, must be paid their full salary for any week in which they perform work. Their salary may be reduced only in the following circumstances:

1. Employees who are absent from work for at least a full day for personal reasons other than sickness or disability will not be paid for that day unless they have accrued paid time off under the client company's paid time off, vacation or sick policy, if any.
2. Exempt employees who are absent for at least a full day because of sickness or disability will not be paid for that day unless they have accrued paid time off under the client company's paid time off, vacation, sickness, or disability policy and the absence qualifies for pay under such policy. Their salary will not be reduced for less than a full day because of sickness or disability.
3. Employees who are absent from work for jury duty, attendance as a witness, or military leave may have their salary reduced by the amount of payment they receive in the form of jury fees, witness fees, or military pay. Their salary will not be reduced by the number of hours or days they are absent unless they perform no work during a given week.
4. If any employee violates a safety rule of major significance, his or her salary may be reduced in an amount to be determined by the company as a penalty for that violation.
5. Employees may be suspended without pay for other types of workplace misconduct, but only in full day increments. This refers to suspensions imposed pursuant to a written policy applicable to all employees regarding serious misconduct including but not limited to workplace harassment, violence, drug and alcohol violations, legal violations, etc. The possibility of such unpaid suspensions is hereby incorporated into all such policies.
6. Employees who work less than forty hours during their first and/or last week of employment will be paid a proportionate part of their full salary for the time actually worked.
7. Employees who take leave under the Family and Medical Leave Act will not be paid for that time unless they have accrued paid time off under the client company's paid time off, vacation, sickness, or disability policy, if any. Their salary will be reduced by the hours missed, even if it is for less than a full day.

This policy is subject to applicable law. The Company will follow the state law regarding of exempt employees' salaries if the state law is more favorable to employees.

**Prohibited Reductions/Complaint Procedure**

Any salaried exempt employee whose salary is reduced in violation of this policy will be reimbursed. If you feel your salary has been improperly reduced, please notify your Tandem HR Human Resource Representative. The employee will not be penalized in any way for making such a complaint.

This policy is intended solely to implement FLSA regulatory requirements, will be applied and modified as necessary in accordance with such requirements, and is not to be considered any type of contract.