

**PROPERLY CLASSIFYING EMPLOYEES:
Summary of California and Federal Law Exemptions**

EXEMPTION	CALIFORNIA	FLSA
	SALARY TEST	SALARY TEST
EXECUTIVE ADMINISTRATIVE PROFESSIONAL (WHITE COLLAR)	<ul style="list-style-type: none"> • Salary level = minimum of \$33,280/year or \$640/week; <li align="center">AND • Salary basis = true salary = a fixed sum not subject to reduction for hours missed. 	<ul style="list-style-type: none"> • Salary level = minimum of \$23,660/year or \$455/week; <li align="center">AND • Salary basis = a true salary not subject to reduction for quantity or quality of work for any week in which the employee performs any work.
EXECUTIVE ADMINISTRATIVE PROFESSIONAL (WHITE COLLAR)	<p align="center">PAYROLL DOCKING RULES</p> <p>Exempt employees are NOT permitted to be subject to partial pay deductions based on the number of hours worked, <i>except for:</i></p> <ul style="list-style-type: none"> • <i>full day personal absences other than sickness or disability; (partial day deductions from an employee's vacation leave bank for partial day absence of at least 4 hours)</i> • <i>full day sickness or disability if pursuant to a bona fide plan for paid benefits for illness and no accrued time on books; (can charge sick account for partial day absence)</i> • <i>hours taken as unpaid FMLA leave;</i> • <i>offsets for jury fees, witness fees and military pay; (no partial pay deductions for partial week absence)</i> • <i>initial or terminal week of employment;</i> • <i>deductions for penalties imposed for violations of significant safety rules.</i> 	<p align="center">PAYROLL DOCKING RULES</p> <p>Exempt employees are NOT permitted to be subject to partial pay deductions based on the number of hours worked, <i>except for:</i></p> <ul style="list-style-type: none"> • <i>full day personal absences other than sickness or disability; (can charge vacation account for partial day absence)</i> • <i>full day sickness or disability if pursuant to a bona fide plan for paid benefits for illness and no accrued time on books; (can charge sick account for partial day absence)</i> • <i>hours taken as unpaid FMLA leave;</i> • <i>offsets for jury fees, witness fees and military pay; (no partial pay deductions for partial week absence)</i> • <i>initial or terminal week of employment;</i> • <i>deductions for penalties imposed for violations of significant safety rules;</i> <li align="center">AND • <i>unpaid disciplinary suspension of one or more full days (compared to former rule of at least one full week), provided such suspension is imposed in good faith for an infraction of "serious workplace conduct" rules pursuant to written policy applicable to all employees (i.e., sexual harassment, drug violation, violations of state or federal laws).</i>

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EXECUTIVE	<p style="text-align: center;">WINDOW OF CORRECTION</p> <p>Where an impermissible deduction is either (a) inadvertent or (b) made for reasons other than lack of work, the exemption will NOT be lost if the employer reimburses the employee for such deductions and promises to comply in the future.</p>	<p>EFFECT OF IMPROPER DEDUCTIONS</p> <p>More protection if an employer has an “actual practice” of making improper deductions, the exemption will be lost for the period in which the improper deduction(s) was made, <i>but</i> only for the employees in the same job classification working for the same manager(s) responsible for the deduction. 29 CFR § 541.603(b).</p> <p>A “safe harbor” if an employer:</p> <ul style="list-style-type: none"> (a) <i>has clearly communicated a policy against improper deductions, which includes a complaint procedure,</i> (b) <i>reimburses any improper deductions, and</i> (c) <i>makes a good faith commitment to comply in the future, the exemption will not be lost for an employee unless the employer willfully continues the deductions after receiving complaints.</i> <p>29 CFR § 541.603(d).</p>
SKILLED COMPUTER	<ul style="list-style-type: none"> • Salary level = minimum of \$37.94/hour. 	<ul style="list-style-type: none"> • Salary level = minimum of \$23,660/year or \$455/week; OR • \$27.63/hour.
HIGHLY COMPENSATED EMPLOYEE	<ul style="list-style-type: none"> • Not Applicable 	<ul style="list-style-type: none"> • Salary ≥ \$100,000/year.
	DUTIES TEST	DUTIES TEST
EXECUTIVE	<ul style="list-style-type: none"> • Supervise 2 or more employees; • Customarily use discretion and independent judgment, <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> • Perform <i>exempt</i> duties over 50% of the workweek. <p style="text-align: center;">What are “exempt” duties?</p> <p>The white-collar exemptions incorporate federal standards for guidance regarding the duties that will also qualify as exempt under state law. 29 CFR 541.108-541.110.</p>	<ul style="list-style-type: none"> • Primary duty managing enterprise or customarily recognized department subdivision; • Regularly direct work of at least two full-time employees; <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> • Authority to hire, fire, promote, etc., or suggestions of change of status must be given weight.

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EXECUTIVE	<ul style="list-style-type: none"> • §541.108: activities performed concurrent with exempt duties because they are <i>directly and closely related</i>. • §541.109: emergency work • §541.110: occasional tasks 	(Intentionally left blank)
ADMINISTRATIVE	<ul style="list-style-type: none"> • Perform office, non-manual work directly related to management policies or general business operations of the employer or customers, • Perform, under general supervision, special assignments and tasks, • Customarily use discretion and independent judgment, <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> • Perform exempt work over 50% of the workweek. 	<ul style="list-style-type: none"> • <i>Primary</i> duty performing office or non-manual work directly related to management or general business operations; <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> • <i>Primary</i> duty exercising discretion and judgment.
PROFESSIONAL	<ul style="list-style-type: none"> • Customarily engage in the use of discretion and independent judgment, <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> • Practice and be licensed or certified by the State of California in one of eight recognized professions. <ul style="list-style-type: none"> • Law • Dentistry • Medicine (<i>not nurses generally, but includes certified nurse practitioners, clinical nurse specialists, nurse anesthetists, and nurse midwives</i>) • Architecture • Engineering (<i>not junior engineers or draftsmen</i>) • Teaching • Accounting <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> • Learned or artistic professional (<i>requires advanced knowledge of science or learning through prolonged course of specialized study and work that is original or creative in character</i>). 	<ul style="list-style-type: none"> • Primary duty performing work requiring advanced knowledge, predominantly intellectual in character and requiring exercise of discretion and judgment; • Primary duty performing work requiring invention, imagination, talent in recognized field of artistic or creative endeavor <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> • Advanced knowledge in a field of science or learning; <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> • Advanced knowledge customarily acquired by prolonged course of specialized instruction.
SKILLED COMPUTER	<ul style="list-style-type: none"> • Highly skilled in theoretical and practical application of highly specialized information to computer systems analysis, programming, and software engineering, 	<ul style="list-style-type: none"> • Employed as a computer systems analyst, programmer, software engineer, or other similarly skilled worker performing the following duties;

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SKILLED COMPUTER (continued)	<p align="center">AND</p> <ul style="list-style-type: none"> Primarily (more than 50% of the workweek) performs work that is intellectual or creative and requires the exercise or discretion and independent judgment. <p><i>Primarily engaged in:</i></p> <ul style="list-style-type: none"> Application of system analysis techniques to determine hardware, software, or system specifications, 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, <p align="center">OR</p> <ul style="list-style-type: none"> Documentation, testing, creation or modification of computer programs related to the design of the software or hardware. Expressly excludes trainees or entry-level employees, computer employees who don't have the skills to work independently without supervision, engineers, drafters, machinists, or "other professionals" whose work is facilitated by computers, but who are not in a systems analysis or programming occupation, employees who operate, manufacture, or maintain computers and related equipment, employees who write box labels, product descriptions, and similar written materials for print or onscreen, or employees who create imagery for effects used in motion picture, television or theatrical industry. 	<p align="center">AND</p> <p><i>Primary duty includes:</i></p> <ul style="list-style-type: none"> The application of systems analysis techniques and procedures, including consulting with users to determine hardware, software or system functional specs; 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 specs; The design, documentation, testing, creation or modification of computer programs related to machine operating systems; A combination of the above duties. <p><i>Expressly excludes:</i></p> <ul style="list-style-type: none"> Employees in computer manufacture or repair.
HIGHLY COMPENSATED EMPLOYEE	<ul style="list-style-type: none"> Not Applicable 	<ul style="list-style-type: none"> Customarily and regularly perform one or more exempt duties of an executive, administrative or professional employee.

ADDITIONAL EXEMPTIONS

Computer Professional Exemption:

- 1) Exempt from overtime compensation if:
 - a) Paid an **hourly** rate of at least **\$37.94**
 - b) Highly skilled in theoretical and practical application of highly specialized information to computer systems analysis, programming and software engineering, **AND**
 - c) Are “primarily engaged” in work that is intellectual or creative and requires the exercise or discretion and independent judgment.

Outside Salesperson Exemption:

The Wage Orders define this exemption stating, in essence, that to qualify for this exemption, an individual must be 18+ years of age, paid commissions, spend more than half of their working time outside company office selling or obtaining orders, be paid no later than when money is received from buyer, and is not required to meet exempt minimum salary requirement.

Commissioned “Inside” Salesperson Exemption:

- 1) An individual who qualifies for this exemption is only exempt from overtime laws. To qualify for this exemption:
 - a) Earnings exceed 1 ½ times minimum wage, **AND**
 - b) More than half of compensation comes from commissions (as defined by Labor Code section 204.1.)

As a result of AB1835, the executive, administrative and professional exemptions MINIMUM salary is \$2,733.33/month, or \$33,280/year, as of January 1, 2008.