

SERVICE CONTRACT LABOR STANDARDS

Non-Commercial Exemptions List

Job titles are insufficient to establish exempt status

1. **Statutory Exemptions (all conditions must be met):**

- ✓ Any contract for the carriage of freight or personnel by vessel, airplane, bus, truck, express, railway line, or oil or gas pipeline where published tariff rates are in effect (29 CFR 4.118).
 - The effect of this exemption has become limited in scope due to changes in transportation laws. (See All Agency Memorandum No. 185 for further information.)
 - This exemption applies only to contracts for carriage by a common carrier.
 - **A transportation service contract is exempt only if the service is actually governed by published tariff rates in effect pursuant to state or federal law.
 - **A contract between the government and the carrier would be evidenced by a government bill of lading citing the published tariff rates.
 - ** Contracts for ambulance or taxicab services typically are not exempt because they are usually not deemed common carriers and/or the transportation is not governed by published tariff rates.
 - ** Mail haul contractors are not within the scope of this exemption because “mail” is not considered to be “freight” under federal law. (However, see the discussion of relevant regulatory exemptions, below.)
 - ** Contracts principally for packing, crating and warehousing of household goods are also not exempt, even though performed by an otherwise common carrier, because the local hauling is a minor, incidental purpose of the contract.

2. **Executive (all conditions must be met):**

- ✓ Receive compensation in salary or fee no less than \$684/week or \$35,568 a year
- ✓ Primary duty is management of the enterprise, department or subdivision
- ✓ Directs the work of two or more other employees
- ✓ Have the authority, or can make recommendations, as to the hiring, firing, advancement, promotion, or any other change of status of other employees

3. **Administrative (all conditions must be met):**

- ✓ The employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$684* per week;
- ✓ The employee’s primary duty must be the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer’s customers; and
- ✓ The employee’s primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

4. Computer or Professional Exemptions (all conditions must be met):

- ✓ Receive compensation in salary or fee no less than \$684/week or \$35,568 a year
- ✓ Primary duty is the performance of office or non-manual work directly related to the management or general business operations of the employer/employer's customers
- ✓ Primary duty includes the exercise of discretion and independent judgment with respect to matters of significance

5. Professional Employees (all conditions must be met):

- ✓ Must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$684* per week
- ✓ Primary duty must be the performance of work requiring advanced knowledge, defined as work which is predominantly intellectual in character, and which includes work requiring the consistent exercise of discretion and judgment
- ✓ The advanced knowledge must be in a field of science or learning
- ✓ The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction
- ✓ Primary duty is the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.

6. Computer Employees (all conditions must be met):

- ✓ Receive compensation in salary or fee no less than \$684/week or \$35,568 a year
- ✓ Primary duty consists of any of the following:
 - 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 systems or programs, including prototypes, based on and related to user or system design specifications
 - The design, documentation, testing, creation or modification of computer programs related to machine operating systems
 - A combination of the aforementioned duties, the performance of which requires the same level of skills.

7. Highly Compensated Employees (all conditions must be met):

- ✓ Highly compensated employees performing office or non-manual work and paid total annual compensation of \$107,432 or more (which must include at least \$684* per week paid on a salary or fee basis) are exempt from the FLSA **if they customarily and regularly perform at least one of the duties of an exempt executive, administrative or professional employee identified in the standard tests for exemption.**