



Exempt vs. Non-Exempt Employees: What Are the Differences?

What Does It Mean to Be a Non-Exempt Employee?

Business owners should understand what the U.S. Department of Labor (DOL) regulations require when an employee is non-exempt. The Fair Labor Standards Act (FLSA) require employers to pay all non-exempt employees at least the federal minimum wage for hours worked. They must also pay overtime pay at one and one-half times the regular rate of pay for all hours worked (over 40 hours) during a workweek.

Examples of Positions Held by Non-Exempt Employees:

- Electricians, carpenters, construction, or maintenance workers in non-management positions
- Sales employees
- Clerical or secretarial employees with little autonomous decision-making, such as receptionists, accounting clerks, bookkeepers, and personnel clerks
- Licensed practical nurses (LPNs)

What Does It Mean to Be an Exempt Employee?

The FLSA provides an exemption from both minimum wage and overtime pay for employees who meet three tests: a salary level test, a salary basis test, and a job duties test. To be exempt from FLSA provisions, an employee must earn a minimum base salary as provided in the regulations and must also be paid on a salary basis, the same amount each week, regardless of the quantity or quality of work.

Examples of Exempt Employees:

- Business executives
- Accountants, compliance, and marketing professionals
- Managers that supervise two or more full-time employees or the part-time equivalent
- Executive assistants given authority to make significant decisions on behalf of business owners or senior executives
- Doctors, lawyers, teachers

Exempt	Non-exempt
Paid not less than \$684 per week on a salary or fee basis	Paid at least minimum wage for all hours worked & overtime pay for hours worked over 40 per workweek
Primary duties require use of advanced knowledge or skills	Primary duties do not require an advanced degree or advanced knowledge
Little direct supervision	May be directly supervised
Has authority/ability to make recommendations, though may not provide the final approval	Employees working in positions where job tasks are routine

Determining an employee's exempt or non-exempt status may not always be cut-and-dry. Additionally, there may be state or local regulations to follow when it comes to overtime or minimum wage requirements. Failure to pay overtime to incorrectly classified workers can leave your business owners open to litigation and/or penalties.

Paychex HR Services can offer their support and guidance in this complex area of employment regulation. Contact your Paychex Rep to learn more today.