

## Exempt Employee Classifications in California

*California law presumes that all employees are non-exempt employees, meaning that they are not exempt from the Labor Code requirements, such as overtime pay, meal and rest breaks, and minimum wage. On the other hand, my experience with most church and faith-based employers is that they tend to want to presume that most employees are exempt from the overtime rules and that by simply classifying the position as “exempt” they can effectively avoid having to pay overtime.*

Under the law, however, exempt employees are designated as such because it has been determined by the law that they are “exempt” from certain wage and hour requirements due to their duties and pay. Further, the employer bears the burden under the law when classifying an employee as “exempt” to ensure such classification has been made based on law and not personal preference. *Simply providing a title to an employee does not make them exempt.* An employee with an impressive job title may not qualify as an exempt employee if his/her actual duties do not meet the requirements for one of the exemptions.

Employees must meet very specific requirements before they can actually be treated as exempt for compensation purposes and if the requirements are not met the employer (churches and religious organizations included) must comply with all wage and hour requirements applicable to non-exempt employees – such as overtime pay, etc.

Exempt employees in California generally must earn a minimum monthly and annual salary of no less than two times the state minimum wage for full time employment. The salary cannot be prorated for part-time employees. Paying an employee a salary does not make them exempt, nor does it change any requirements for compliance with wage and hour laws.<sup>1</sup>

There are many exemptions from the overtime rules, and many nuances to each exemption. For most exemptions, more than fifty percent of an employee's time must be spent performing exempt job duties, so employers should perform their analysis very carefully and receive advice from an experienced employment law attorney or HR professional before classifying employees as exempt.

While California law has more rigorous standards than federal law, federal law still warrants some attention. For one thing, the Department of Labor Standards Enforcement (DLSE) has indicated that, although there are differences between the state and federal exemption standards, the federal regulations may serve as a guide where there is no conflict.

---

<sup>1</sup> The “salary test” required for exempt employees provides that the full weekly salary be paid for any week in which any work is performed, with only very limited exceptions. As a result, deductions from the salary of an exempt employee are limited. For example: Do not make deductions when work is unavailable because of the operational requirements of the business, provided exempt employees are ready, willing and able to work. Thus, if July 4 falls on a Tuesday and you shut down the business for the balance of the week, any exempt employee who worked on Monday of that week is entitled to a full week's pay.

## Common Exemption Types in California

The most common types of exemptions that occur in a workplace under California Law are these:

- Executive
- Administrative
- Professional
- Computer Professional

---

### DISCLAIMER

*This material is presented with the understanding that the author is providing basic information only and assumes no liability whatsoever in connection with its use. Tax laws are constantly changing, are subject to differing interpretations, and the facts and circumstances in any particular situation may not be the same as those presented here. Therefore, we urge you to do additional research and make sure that you are fully informed and knowledgeable before using the information contained herein.*

*To ensure compliance with Treasury Regulations (31 CFR Part 10, §10.35), we are required to inform you that any tax advice contained in any correspondence or other communication from us is not intended or written by us to be used, and cannot be used by you or anyone else, for the purpose of avoiding penalties imposed by the Internal Revenue Code.*