

Exempt Analysis Worksheet - Salesperson Exemption

This worksheet is to be used only as a guideline to determine exempt or nonexempt status. The completion of this worksheet does not imply or guarantee that the analysis of the position as exempt will be recognized as accurate by the Division of Labor Standards Enforcement.

Position

Current Employee

Department

Supervisor and Title

Date of Evaluation

Evaluator

OUTSIDE SALES:

An outside salesperson is exempt from overtime requirements if they meet both tests below:

1. Eighteen years of age or older.

Is employee 18 years of age or older? Yes No

2. Spends more than 50% of their working time away from the employer's place of business, selling tangible or intangible items, or obtaining orders or contracts for products, services or use of facilities. Work performed incidental to and in conjunction with the employee's own outside sales or solicitations, including incidental deliveries and collections, is not considered exempt work (i.e. delivery, repair and maintenance).

List the employee's duties and the percentage of time required for each:

<u>Duties</u>	<u>Percentage of time</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Note: Outside salespersons are not required to meet the minimum salary requirement that applies to the executive, administrative and executive exemptions.

INSIDE SALES:

An inside salesperson is one who sells merchandise in a store or sales lot (for example, car or RV sales lot) or one who sells a product or service via a company telephone. Certain inside sales employees working under Wage Orders 4 and 7 are exempt from overtime. This exemption applies to overtime only, not all other wage and hour laws.

Exempt Analysis Worksheet - Salesperson Exemption

An inside salesperson may be exempt from overtime if both of the following tests are met:

1. The employee's earnings paid in each pay period exceed one-and-one-half times the minimum wage.

Employee's earnings : \$ _____

Note: The employee must receive in each paycheck an amount that exceeds 1.5 times the minimum wage¹ for the hours worked during the workweeks covered by the paycheck. Employers cannot reassign wages from a different pay period in order to meet this requirement.

2. More than half the employee's compensation represents commissions.

Percentage of compensation representing commissions: _____ %

Note: If there is a guaranteed draw against commissions, the labor commissioner may consider that the earnings are not in fact commissions but rather a salary, and this exemption may therefore not apply.

¹Effective April 1, 2024, the statewide minimum wage for workers working in a limited-service restaurant that is part of a national brand of more than 60 establishments ("fast food worker") will be \$20 per hour. If you have any exempt fast food workers working in restaurants, you must pay a monthly salary equivalent to no less than two times the fast food worker minimum wage.

Effective June 1, 2024, the statewide minimum wage for workers in most health care facilities ("health care workers") will exceed the standard statewide minimum wage. The minimum wage rate for health care workers will depend upon the facility the worker works at. Under these new rates, exempt employees must earn a monthly salary equivalent to either two times the standard statewide minimum wage or 1.5 times the health care worker minimum wage rate, whichever is greater.