

**FLSA “ADMINISTRATOR” EXEMPTION
QUESTIONNAIRE**

Under the federal Fair Labor Standards Act (“FLSA”) employees are entitled to receive overtime pay if they work in excess of 40 hours per week, unless the employee’s position is one which is exempt from FLSA. Non-exempt employees are required to record their time each day.

One exemption under the FLSA is for administrators. An “administrator” is someone who is paid a regular salary and whose primary duties work directly related to the management or general business operations of the employer or the employer’s customers, and whose primary duty includes the exercise of discretion and independent judgment with respect to matters of significance. An explanation of what is meant by *discretion and independent judgment* follows.

Please answer the following:

1. Job title: _____
2. Supervisor: _____
3. The person completing this questionnaire is the supervisor/ person who holds the position in question.
4. Do the primary duties of this position involve, at least occasionally, the exercise of discretion and independent judgment? Yes / No

Please explain: _____

5. Do you think this position should be classified as exempt from the FLSA (that is, that overtime should not be paid)? yes / no

Please explain: _____

Print name

Signature

Date

Excerpts From Federal Regulations

The phrase “related to the management or general business operations” refers to work directly related to assisting with the running or servicing of the business, as distinguished, for example, from working on a manufacturing production line or selling a product in a retail or service establishment.

In general, the exercise of “discretion and independent judgment” involves the comparison and the evaluation of possible courses of conduct, and acting or making a decision after the various possibilities have been considered. The fact that an employee's decision may be subject to review and that upon occasion the decisions are revised or reversed after review does not mean that the employee is not exercising discretion and independent judgment. Here are some examples:

- ✍ Insurance claims adjusters generally meet the requirements for the administrative exemption, if their duties include activities such as interviewing witnesses, inspecting property damage; reviewing factual information to prepare damage estimates; evaluating and making recommendations regarding coverage of claims; determining liability and total value of a claim, negotiating settlements; and making recommendations regarding litigation.
- ✍ An executive assistant or administrative assistant to a business owner or senior executive of a large business generally meets the duties requirements for the administrative exemption if such employee, without specific instructions or prescribed procedures, has been delegated authority regarding matters of significance.
- ✍ Human resources managers who formulate, interpret or implement employment policies and management consultants who study the operations of a business and propose changes in organization generally meet the duties requirements for the administrative exemption. However, personnel clerks who “screen” applicants to obtain data regarding their minimum qualifications and fitness for employment generally do not meet the duties requirements for the administrative exemption.
- ✍ Purchasing agents with authority to bind the company on significant purchases generally meet the duties requirements for the administrative exemption even if they must consult with top management officials when making a purchase commitment for raw materials in excess of the contemplated plant needs.
- ✍ Ordinary inspection work generally does not meet the duties requirements for the administrative exemption. Inspectors normally perform specialized work along standardized lines involving well-established techniques and procedures which may have been catalogued and described in manuals or other sources. Such inspectors rely on techniques and skills acquired by special training or experience. They have some leeway in the performance of their work but only within closely prescribed limits.
- ✍ Comparison shopping performed by an employee of a retail store who merely reports to the buyer the prices at a competitor's store does not qualify for the administrative exemption. However, the buyer who evaluates such reports on competitor prices to set the employer's prices generally meets the duties requirements for the administrative exemption.