



PENNSYLVANIA

MINIMUM WAGE ACT (MWA)

Exemption for Executive, Administrative and Professional Employees

The Minimum Wage Act (MWA) requires employers to pay their employees at a rate of not less than \$7.25 an hour for all hours worked and an overtime rate of 1.5 times the employee's regular rate of pay for all hours worked above 40 in a workweek.

However, section 5(a)(5) of the MWA provides an exemption from both minimum wage and overtime pay for employees employed in a bona fide executive, administrative, or professional capacity. To qualify for the exemption, employees must meet certain tests regarding their salary **and** their job duties. Being paid a salary does not automatically qualify an employee for one of these exemptions. Furthermore, job titles do not determine exempt status. In addition to the requisite salary test, the following are the duties tests executive, administrative, or professional employees must meet to be exempt from minimum wage and overtime.

Executive Exemption

To qualify for the executive exemption, an employee must meet the following criteria:

- Compensated on a salary basis of not less than \$684 per week;
- Primary duty is management of the enterprise or managing a customarily recognized department or subdivision of enterprise;
 - "Management" is defined as to include, but is not limited to, activities such as interviewing, selecting, and training of employees; setting and adjusting employees' rates of pay and hours or work; directing the work of employees; maintain production or sales records for use in supervision or control; appraising employees' productivity and efficiency for the purpose of recommending promotions or other changes in status; handling employee complaints and grievances; disciplining employees; planning the work determining the techniques to be used to perform work; apportioning the work among the employees; determining the type of materials, supplies, machinery, equipment or tools to be used or merchandise to be bought, stocked and sold; controlling the flow and distribution of materials for merchandise and supplies; providing for the safety and security of the employees or the property; and planning and controlling the budget, and monitoring or implementing legal compliance measures.
- Work requires customary and regular direction of at least two full-time employees;
- Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees are given particular weight;
- For the purposes of counting towards the minimum weekly salary, up to 10% of the individual's salary may be satisfied by the payment of nondiscretionary bonuses, incentives and commissions that are paid annually or more frequently.

Examples: CEO, CFO, human resources director, bank branch manager, office manager

Administrative Exemption

To qualify for the administrative exemption, an employee must meet the following criteria:

- Compensated on a salary basis of not less than \$684 per week;
- Primary duty consists of office or nonmanual work directly related to management or general business operations of the employer or employer's customers;
 - "General business operations" is defined as to include, but is not limited to, work in functional areas such as tax; finance; accounting; budgeting; auditing; insurance; quality control; purchasing; procurement; advertising; marketing; research; safety and health; personnel management; human resources; employee benefits; labor relations; public relations; government relations; computer network; internet and database administration; legal and regulatory compliance.
- Primary duty requires the exercise of discretion and independent judgment with respect to matters of significance;
- For the purposes of counting towards the minimum weekly salary, up to 10% of the individual's salary may be satisfied by the payment of nondiscretionary bonuses, incentives and commissions that are paid annually or more frequently.

Examples: academic advisor, consultant, insurance claim adjuster, purchasing agent

Professional Exemption

To qualify for the professional exemption, an employee must meet the following criteria:

- Compensated on a salary basis of not less than \$684 per week;
- Primary duty consists of work requiring EITHER
 - the knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized instruction and study; OR
 - invention, imagination, originality or talent in a recognize field of artistic or creative endeavor; and
- For the purposes of counting towards the minimum weekly salary, up to 10% of the individual's salary may be satisfied by the payment of nondiscretionary bonuses, incentives and commissions that are paid annually or more frequently.

Examples: CPA, attorney, doctor, architect, engineer, author, cartoonist, musician

Examples of employees who do not qualify for these exemptions:

bookkeeper, social worker, case manager, advocate for individuals with disabilities, secretary, help desk support specialist, inspector, medical coder, mortgage loan officer and nurse.

Any questions concerning the application of these exemptions, contact the Bureau of Labor Law Compliance at: RA-LI-SLMR-LLC@pa.gov or 800-932-0665.

Further information on minimum wage and overtime, such as the salary test for exempt employees, may be found at: www.dli.pa.gov/overtime