



# County Technical Assistance Service

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## Administrative Employee Exemption

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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## Table of Contents

Administrative Employee Exemption .....	3
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## Administrative Employee Exemption

**Reference Number:** CTAS-141

To qualify for this exemption, an employee's primary duty must be the performance of work that is directly related to the management or general business operations of the employer. The exemption generally includes executive and administrative assistants, advisory specialists, and employees who are in charge of a functional department that may include only one person. To be classified as a bona fide administrative employee under the FLSA, all of the following requirements<sup>[1]</sup> must be met:

1. The employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$684 per week (\$35,568 per year);
2. The employee's primary duty must be the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and
3. The employee's primary duty must include the exercise of discretion and independent judgment with respect to matters of significance.

To meet the requirements of the exemption, the employee must perform work that is directly related to assisting with the running or servicing of the business. Work directly related to management policies or general business operations is defined under the regulations to include, but not be 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, government relations, computer network and Internet activities, legal and regulatory compliance and similar activities.<sup>[2]</sup>

The regulations set out ten factors for determining whether an employee meets the requirement that the employee exercise "discretion and independent judgment with regard to matters of significance." These factors are:

1. Whether the employee has authority to formulate, affect, interpret, or implement management policies or operating practices;
2. Whether the employee carries out major assignments in conducting the operations of the business;
3. Whether the employee performs work that affects the business operations to a substantial degree, even if the employee's assignments are related to the operation of a particular segment of the business;
4. Whether the employee has authority to commit the employer in matters that have significant financial impact;
5. Whether the employee has authority to waive or deviate from established policies and procedures without prior approval;
6. Whether the employee has authority to negotiate and bind the company on significant matters;
7. Whether the employee provides consultation or expert advice to management;
8. Whether the employee is involved in planning long- or short-term business objectives;
9. Whether the employee investigates and resolves matters of significance on behalf of management; and
10. Whether the employee represents the company in handling complaints, arbitrating disputes, or resolving grievances<sup>[3]</sup>

The regulations also state that the "discretion and independent judgment" requirement still can be met even if their decisions are subject to review at a higher level, and even if the employee's duties consist of recommending action rather than the actual taking of action, as long as the other relevant factors warrant the conclusion. However, it must be more than the use of skill in applying well-established procedures or standards described in manuals<sup>[4]</sup> or other sources, and it does not include clerical or secretarial work, recording or tabulating data, or performing other mechanical, repetitive, recurrent or routine work.<sup>[5]</sup>

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[1] These requirements are set out in 29 C.F.R. § 541.200.

[2] 29 C.F.R. § 541.201.

[3] 29 C.F.R. § 541.202.

[4] In 29 C.F.R. § 541.704, it is noted that the use of manuals does not automatically exclude an employee from an exemption. The use of manuals, guidelines or other procedures that relate to highly technical, scientific, legal, financial or other similarly complex matters that can be understood or interpreted only by those with advanced or specialized knowledge or skills does not affect an employee's exempt status.

[5] 29 C.F.R. § 541.202.

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