

COMMON OVERTIME EXEMPTIONS COMBINED

There are different tests under federal and NY state law for determining whether an employee is exempt from the overtime pay requirements. For a NY employee to be exempt, they must meet both the federal **and** the NY state tests. There is some overlap between the federal and NY tests, but generally, the NY tests are more stringent than the federal tests. This reference sheet combines the most common federal and NY state tests into one. Employees who meet one of the tests below will be considered exempt from the overtime pay requirements under federal and NY state law. For each of the exemptions below, employees must receive a minimum salary of at least \$58,500/year in NYC or Nassau, Suffolk and Westchester counties or \$51,480/year in the remainder of the state.

EXECUTIVE EXEMPTION

Minimum salary + Employee's primary duty is managing the enterprise + Employee customarily and regularly directs the work of two or more other full-time employees or their equivalent + Employee must have the authority to hire or fire employees + Employee's suggestions as to the hiring, firing, advancement, promotion or any other change of status of employees is given particular weight + Employee customarily and regularly exercises discretionary powers

ADMINISTRATIVE EXEMPTION

Minimum salary + Employee's primary duty is the performance of office or non-manual work directly related to management policies or general business operations + Employee regularly and directly assists the employer (or a bona fide executive or administrative employee) or performs under general supervision, work along specialized or technical lines requiring special training, experience or knowledge + Employee customarily and regularly exercises discretion and independent judgment concerning matters of significance

LEARNED PROFESSIONAL

Minimum salary + Employee's primary duty is the performance of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized instruction and study + Employee's work requires the consistent exercise of discretion and judgment in its performance + Employee's work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical or physical work) + Employee's work is of such a character that the output produced or the result accomplished cannot be standardized in a given period of time

CREATIVE PROFESSIONAL

Minimum salary + Employee's primary duty is the performance of work that is original and creative in a field of artistic or creative endeavor, and produces a result that depends primarily on the invention, imagination, or talent of the employee + Employee's work requires the consistent exercise of discretion and judgment in its performance + Employee's work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical or physical work) + Employee's work is of such a character that the output produced, or the result accomplished, cannot be standardized in a given period of time