



HRDrive™

Driving The Right Practices In Your Dealership

Exempt Vs. Non-Exempt Guide to Determining Employee Classification



The Rules Have Changed. Are You Ready?

Fair Labor Standards Act Changes Impact Overtime Standards

The US Department of Labor (DOL) recently made changes to the Fair Labor Standards Act (FLSA) affecting employee overtime standards. Ensuring that your business is classifying your exempt and non-exempt employees properly is crucial to keeping your business in compliance, minimizing employee complaints and HR issues, and also avoiding potential fines. Save your company time and money by properly classifying your employees the right way, from the beginning.

There are two basic types of employees in the workplace for the purposes of wage payments - “exempt employees” and “non-exempt employees.” What’s the difference between these types of workers and the jobs they hold? The most significant difference is pay for overtime work. The term “exempt” means exempt from having to be paid overtime wages.

There are regulations which govern whether an employee can be exempt from receiving overtime pay. Exempt employees, are not entitled to overtime pay as guaranteed by the Fair Labor Standards Act (FLSA).

The FLSA requires that employers must pay at least the minimum wage for up to 40 hours in a work week and overtime pay for any additional time unless the employee falls into an exception category. In addition to the Federal Act, many states have their own set of wage requirements and laws and it is important that employers abide by both federal and state law to stay compliant. Not being in compliance will result in big fines and you will be required to pay the employee not just the owed overtime but additional damages.

Are you properly classifying your employees?



Why Exempt vs. Non-Exempt Matters

Who is non-exempt?

The Fair Labor Standards Act (FLSA) recognizes three main categories of exempt workers. These categories are as follows:

- Executive
- Learned Professional
- Administrative
- Computer Employee
- Outside Sales
- Highly Compensated

These three categories encompass many types of jobs. **It is the tasks performed on the job, not the job title alone, which determine exempt vs. non-exempt employment status.**

Classifying employees incorrectly is risky business. The improper classification of employees is more than a clerical error, it is a failure to act in good faith toward your employees and it is against the law. It can cost you big in penalties and fines. When an employee is classified improperly they aren't paid the correct wage. This can be grounds to get audited by the DOL. Are your files up to snuff?

Proper employee classification can be confusing. Avoid making simple mistakes that can become costly ones. HRDrive from KPA provides a wizard that will quickly walk you through how to easily identify how your employees should be classified. Ask us about our easy to use software solution HRDrive.



Who's Who?

A Closer Look at Classification

A good rule of thumb is to get in the habit of comparing your employee job descriptions to DOL standards from the start. As an employer it is also important that you regularly check and audit employee classification and job descriptions to make sure your employees are classified the right way. A good time to audit your files would be quarterly, annually, or as your employee reviews come up.



Non-Exempt Employees

Must be paid for all hours worked. Depending on the position and business of the employer they may be entitled to overtime. "Hours paid for hours worked." Anyone who is not an exempt employee is considered non-exempt.

Exempt Employees

Executive: Must manage at least two direct reports who are full-time

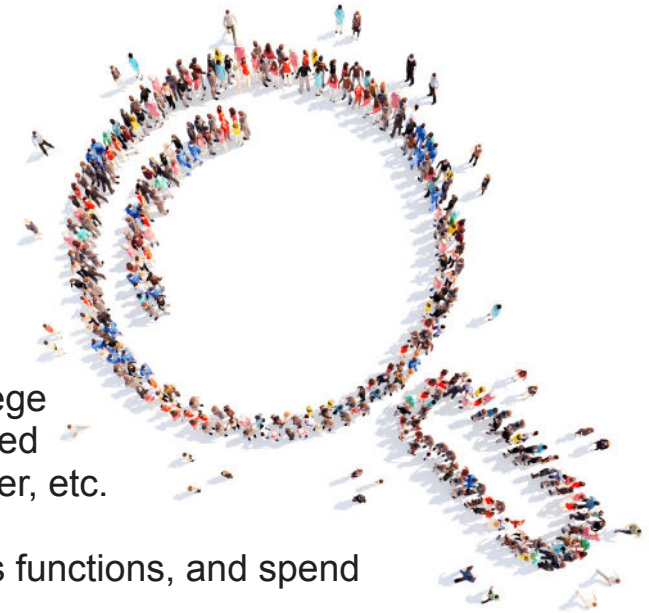
Administrative: This classification does not mean administrative assistants, or support staff

Computer Employee: A skilled worker in the computer field, such as a systems analyst, computer programmer, software engineer, etc.

Learned Professional: This does not merely refer to anyone with a college degree. Learned professionals are those who have completed an extended and focused or specialized area of study, such as a lawyer, doctor, teacher, etc.

Outside Sales: Refers to sales employees who are responsible for sales functions, and spend more time on a client site than they do in their company's facilities.

Highly Compensated: Under 29 U.S.C. § 541.601, the regulation reads: "An employee with total annual compensation of at least \$134,004 is deemed exempt . . . if the employee customarily and regularly performs any one or more of the exempt duties or responsibilities of an executive, administrative, or professional employee."



Be mindful of internships and contract workers. Classification can be tricky.

Common Mistakes to Avoid

The rules have changed. Are you informed and prepared?

A good employer doesn't want to willfully under pay their employees. And they shouldn't, it will get them into hot water. All too often, good employers either aren't informed, they unintentionally neglect to update the way they manage the HR processes, or they are just too busy with the competing priorities, and the day-to-day operations of business as usual.



Common Classification Mistakes Employers Make:

- Employee timesheets being filled out incorrectly.
- Assuming that salaried employees are exempt from overtime. This is incorrect, it's job duties that count.
- A verbal agreement was made with employee when they were hired that they wouldn't receive overtime.
- Employer promises comp time when employee works over 40 hours instead of overtime pay.
- The employee is considered a "manager", or has "manager" in their title. Titles are not enough. Again, it's job duties that count.
- Improperly classifying employees as independent contractors.



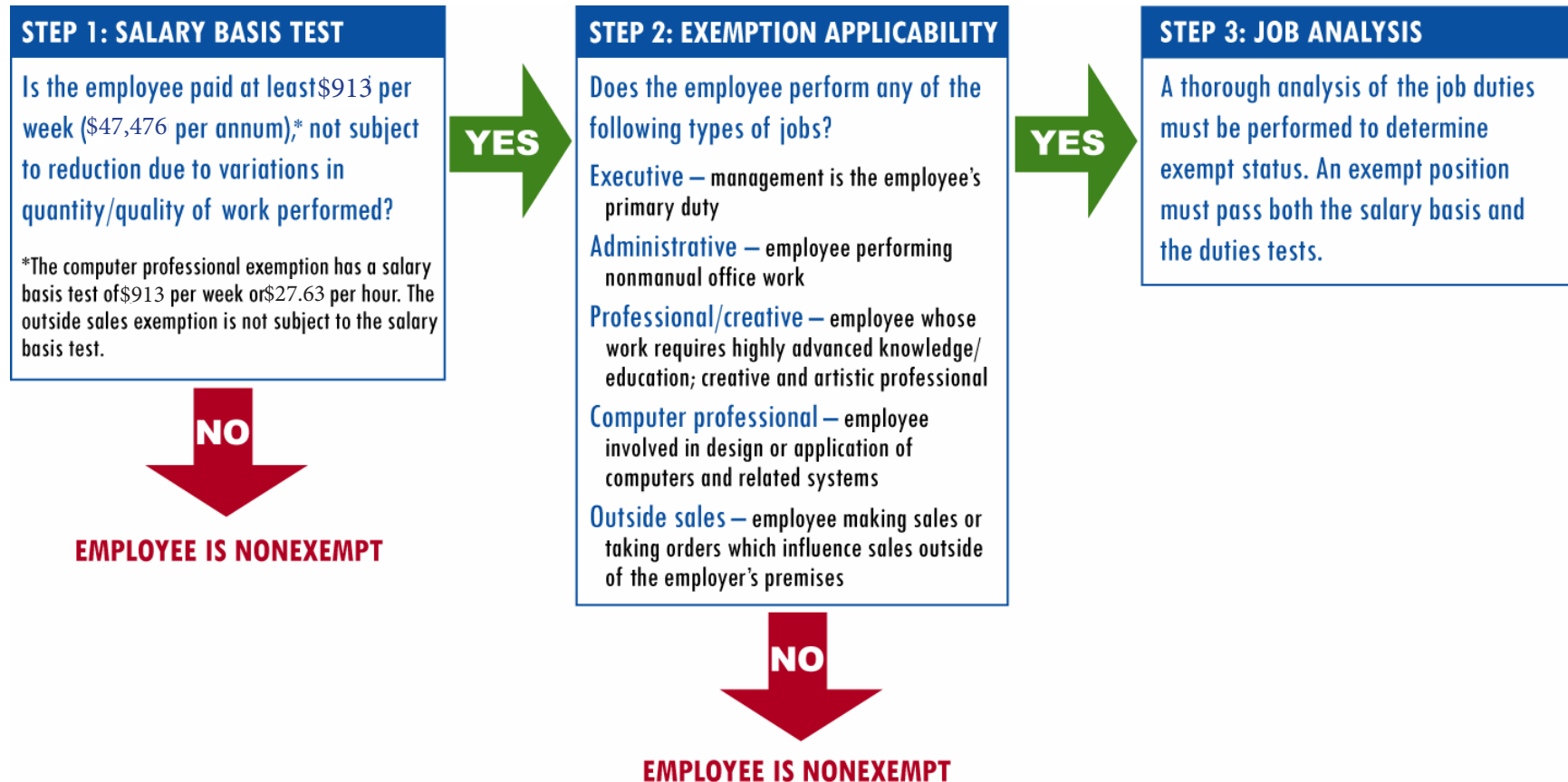
FACT: In 2015 \$246 million in back wages were collected by the Department of Labor, for more than 240,000 workers. 42% of investigations were agency-initiated. Visit <https://www.dol.gov/whd/statistics/> for a handy infographic with more stats.

Source: Department of Labor statistics

How To Determine The Type of Job Your Employees Perform

FLSA Exemptions Flowchart

This exhibit serves as a basic outline for an employer's initial analysis of positions being considered for exemption under the FLSA and is meant to serve as one of several tools in an employer's analysis. SHRM strongly recommends that employers have legal counsel review their analysis efforts and exemption decisions. The three-step process is explained in greater detail on the following pages.



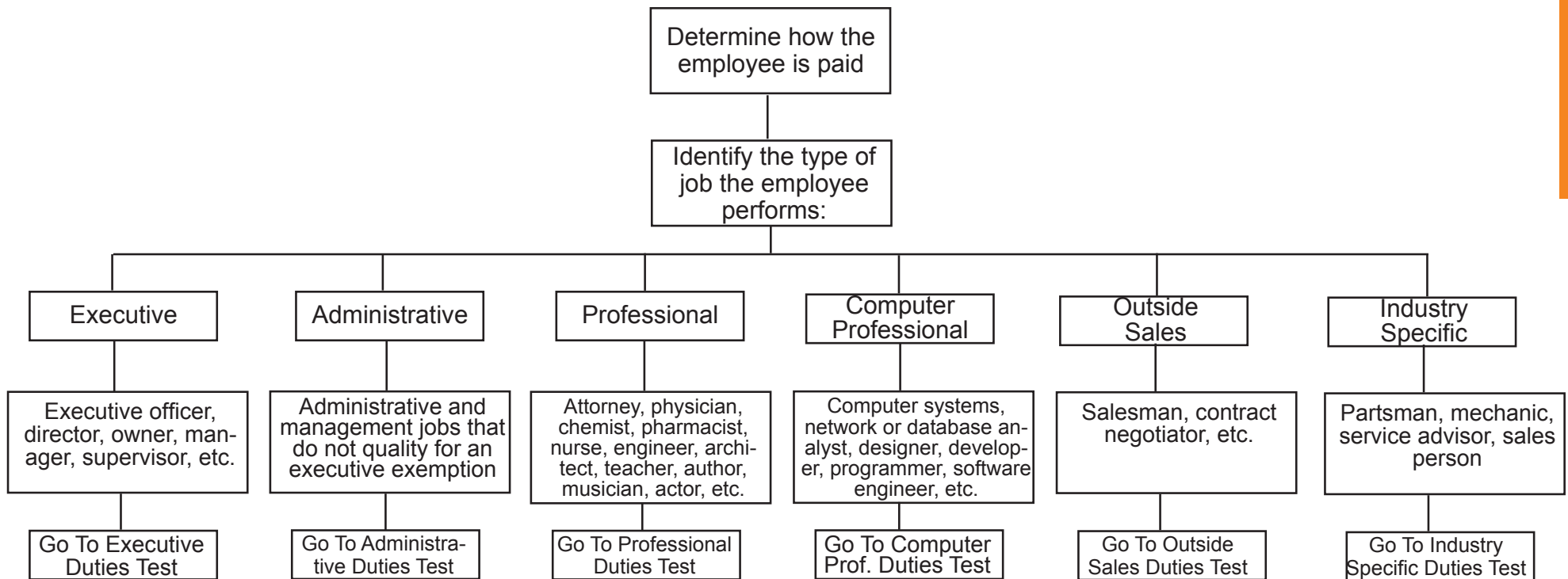
How To Determine The Type of Job Your Employees Perform

KPA's Employee Classification Wizard

How is the employee or position compensated? How much does the position or employee make?
What is the employees role or position?

KPA's Employee Classification Wizard makes answering all of your questions and determining employee classification easy by walking you through the process in just a few simple steps.

See how our wizard prompts you to reach the correct result below.





HRDrive™

Driving The Right Practices In Your Dealership

Contact us today for your HR solutions.

Toll Free: 866.356.1735
support@kpaonline.com