



Non-Exempt Employee

Dear Reader:

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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 municipal 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 MTAS website material.

Sincerely,

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The regulations make it clear that the “Executive, Administrative and Professional” exemptions do not apply to “blue collar workers who perform work involving repetitive operations with their hands, physical skill and energy. Such non-exempt blue collar employees gain the skills and knowledge required for performance of their routine manual and physical work through apprenticeships and on the job training, not through the prolonged course of specialized intellectual instruction. Non-management production line employees and non-management employees in maintenance, construction, and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremens, construction workers and laborers are entitled to minimum wage and overtime premium pay under the FLSA and are not exempt under this part no matter how highly paid they might be.” 29 C.F.R. § 541.3(a).

The regulations also do not apply to “police officers, detectives, investigators, inspectors, park rangers, firefighters, paramedics, emergency medical technicians, ambulance personnel, rescue workers, hazardous materials workers and similar employees regardless of rank or pay level who perform work such as preventing, controlling or extinguishing fires of any type; rescuing fire, crime, or accident victims, preventing or detecting crimes; conducting investigations or inspections for violations of laws; performing surveillance; pursuing, restraining and apprehending suspects; detaining or supervising suspects and convicted criminals, including those on probation or parole; interviewing witnesses; interrogating and fingerprinting suspects; preparing investigative reports or other similar work.” 29 C.F.R. § 541.3(b)(1).

Such non-exempt employees “do not qualify as exempt executive employees because their primary duty is not management of the enterprise in which the employee is employed. 29 C.F.R. § 541.3(b)(2). Such employees are not exempt administrative employees because their primary duty is not the performance of work directly related to the management or general business operations of the employer. 29 C.F.R. § 541.3(b)(3) Such employees are not exempt under the professional exemption because their primary duty does not involve the performance of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by prolonged course of specialized intellectual instruction or the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.” 29 C.F.R. § 541.3(b)(4).

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