



Municipal Technical Advisory Service  
INSTITUTE *for* PUBLIC SERVICE

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## Highly Compensated Creative Exemption

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Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](http://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

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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## Table of Contents

Highly Compensated Creative Exemption .....	3
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## Highly Compensated Creative Exemption

Reference Number: MTAS-937

**(Employees who meet the criteria below are bona fide highly compensated creative professional employees under DOL's regulations.)**

- Is the employee's total annual non-discretionary compensation at least \$107,432? 29 C.F.R. § 541.601(a).
  - Is the employee paid on a salary or fee basis a minimum of \$684 per week exclusive of board, lodging or other facilities? 29 C.F.R. § 541.601(b).
    - Is the employee paid on a salary basis? With certain limited exceptions he or she must:
      - Experience no reduction in salary for variations in the quality and quantity of work;
      - Experience no deduction for partial-day absences;
      - Receive each pay period a pre-determined amount constituting all or part of his or her compensation; or
      - Pay deductions are based on the principle of public accountability. 29 C.F.R. § 541.710.
    - Alternately, is the employee paid on a fee basis? 29 C.F.R. § 541.605.
  - Does the employee regularly and customarily perform one or more exempt professional duties involving work that requires invention, imagination, originality or talent in a recognized field of artistic or creative endeavor. 29 C.F.R. § 541.302.
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