



## Exempt Employees

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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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## Exempt Employees

**Reference Number:** MTAS-1204

Certain employees meeting specific criteria may be exempt from the overtime requirements. While many people use the terms “salaried” or “hourly,” those terms are not always correct. An employee who is not subject to overtime is considered to be “exempt.” An employee who is entitled to overtime pay for hours worked in excess of the overtime threshold is considered to be “nonexempt.”

To be exempt from overtime an employee must meet three tests. First, the employee must be paid on a salaried basis, although some salaried employees may not be exempt from overtime. Second, the employee must be paid at least \$455 per week or \$23,659.92 per year. Third, the employee must meet the job duties test. There are three classifications of exempt employees for the job duties test. They are the executive exemption, the administrative exemption, and the professional exemption.

## Executive Exemption

**Reference Number:** MTAS-1205

The employee must:

- Be paid on a salaried basis and meet the minimum salary test;
- Have the primary duty to manage the department or subdivision;
- Customarily direct the work of two or more employees; and
- Have authority to hire or fire employees *or whose recommendations for hiring, firing, promotion, etc., are given particular weight.*

Most police chiefs meet the above tests. Division commanders and other command officers may meet the test, depending on their level of responsibility and authority. In many cities, the chief and certainly division commanders do not have the authority to hire, fire, or demote employees, but their recommendations are given considerable weight by those who do have that authority.

Concurrent performance of exempt and nonexempt work does not automatically disqualify an employee from the exemption. For instance, a police chief or other exempt employee may have the discretion to perform line level, nonexempt duties and still remain responsible for the success or failure of the department's operations.

## Staff Administrative Exemption

**Reference Number:** MTAS-1206

The employee must:

- Be paid on a salaried basis and meet the minimum salary test;
- Perform office or non-manual work in management or operations of the employer or employer's customers; and
- Have a primary duty that includes exercising discretion and independent judgment on matters of significance.

This class of exempt employee may include administrative officers who do not directly supervise other employees. Some factors to consider in determining whether an employee meets these tests include:

- Work must be directly related to assisting with the running of the business;
- Discretion and independent judgment must be exercised with respect to “matters of significance” ;
- The employee must have authority to formulate, affect, interpret, or implement management policies or operating procedures.

## Staff Professional Exemption

**Reference Number:** MTAS-1207

The employee must:

- Be paid on a salaried basis and meet the minimum salary test;
- Have a primary duty to perform work requiring advanced knowledge or invention, imagination, or originality;
- Work in a field of science or learning or talent in a recognized field of artistic or creative endeavor; and
- Use knowledge customarily acquired by a prolonged course of specialized intellectual instruction.

The professional exemption rarely applies in police departments. Some examples include police attorneys or police psychologists. 29 C.F.R. § 541.

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