

Payment on a Fee Basis

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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While uncommon in the public sector, bona fide administrative and professional employees may also be paid on a "fee basis", rather than a salary basis. "An employee will be considered to be paid on a fee basis if the employee is paid an agreed sum for a single job regardless of the time required for its completion. A fee is paid for the kind of job that is "unique" rather than for a "series of jobs repeated an indefinite number of times and for which payment on an identical basis is made over and over again." Payments based on the number of hours or days worked and not on the accomplishment of a given single task are not considered payments on a fee basis. "To determine whether the fee payment meets the minimum salary required for exemption, the amount paid to the employee will be tested by determining the time worked on the job and whether the fee payment is at a rate that would amount to at least \$684 per week if the employee had worked 40 hours." 29 C.F.R. § 541.605.

The Department provides the example of an artist paid \$500 for a picture that took 20 hours to complete. Accordingly, this would meet the minimum salary requirement for exemption since the earnings at this rate would yield the artist \$1000 if 40 hours were worked and the salary level would be \$913. 29 C.F.R. § 541.605(b).

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