



## Exempt Computer Employee

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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,

The University of Tennessee  
Municipal Technical Advisory Service  
1610 University Avenue  
Knoxville, TN 37921-6741  
865-974-0411 phone  
865-974-0423 fax  
[www.mtas.tennessee.edu](http://www.mtas.tennessee.edu)

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## Exempt Computer Employee

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Employees who work as “computer systems analysts, computer programmers, software engineers or other similarly skilled workers in the computer field” are eligible as an exempt professional employee. The exemption applies to “any computer employee compensated on a salary or fee basis at a rate of not less than \$27.63 an hour.” 29 U.S.C. § 213(a)(17). The exemption, however, applies “only to computer employees whose primary duty consists of: (1) the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications; (2) the design, development, documentation, analysis, creation, testing or modifications of computer systems or programs, including prototypes, based on and related to user or system design specifications; (3) the design, documentation, testing, creation or modification of computer programs related to machine operating systems; or (4) a combination of the above, the performance of which requires the same level of skills.” 29 C.F.R. § 541.400(b)(1-4).

The computer exemption “does not include employees engaged in the manufacture or repair of computer hardware and related equipment. Employees whose work is highly dependent upon, or facilitated by, the use of computers and computer software programs, but who are not primarily engaged in computer system analysis and programming or other similarly skilled computer related occupations also are not exempt computer professionals.” 29 C.F.R. § 541.401.

Computer employees may also be exempt under the Executive and Professional duties exemption if their primary duties includes work such as planning, scheduling and coordinating activities required to develop systems to solve complex business, scientific or engineering problems of the employer of the employer's customers or manages two or more employees and whose recommendations as to the hiring, firing, advancement, promotion or other change of status of other programmers are given particular weight. 29 C.F.R. § 541.402.

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