FLSA Flowchart – Determining Exemptions Status Under The FLSA’s Final Regulations

**“SALARY TEST”**

Does the employee earn at least $455 per week on a salary basis?

- **NO**
  - Is the employee a computer professional who earns $27.63 or more per hour?
    - **NO**
      - Employee is nonexempt
    - **YES**
      - Employee is exempt
  - **YES**
    - Employee is nonexempt

**“DUTIES TEST”**

Is the employee’s primary duty...

- **YES**
  - **Employee is nonexempt**
- **NO**
  - Does the employee earn at least $455 per week on a salary basis?
    - **NO**
      - Employee is nonexempt
    - **YES**
      - Employee is exempt

**“Executive Exemption”**

Does the employee customarily and regularly direct the work of two or more other employees?

- **NO**
  - Employee is nonexempt
- **YES**
  - Does the employee customarily exercise discretion and independent judgment with respect to matters of significance?
    - **NO**
      - Employee is nonexempt
    - **YES**
      - Employee is exempt

**“Administrative Exemption”**

Performing office or non-manual work directly related to the management or general business operations of the employer or employer’s customers?

- **NO**
  - Employee is nonexempt
- **YES**
  - Does the employee exercise discretion and independent judgment with respect to matters of significance?
    - **NO**
      - Employee is nonexempt
    - **YES**
      - Employee is exempt

**“Learned Professional Exemption”**

Performing work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction?

- **NO**
  - Employee is nonexempt
- **YES**
  - Employee is exempt

**“Creative Professional Exemption”**

Performing work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor?

- **NO**
  - Employee is nonexempt
- **YES**
  - Employee is exempt

**“Computer Exemption”**

(A) Application of systems analysis techniques and procedures, including consulting with users to determine hardware, software or system functional applications; or (B) design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications; or (C) design, documentation, testing creation or modification of computer programs related to machine operating systems; or (D) a combination of duties described in (A), (B) and (C), the performance of which requires the same level of skills?

- **NO**
  - Employee is nonexempt
- **YES**
  - Is the employee a computer professional who earns $27.63 or more per hour?
    - **NO**
      - Employee is nonexempt
    - **YES**
      - Employee is exempt