

EXEMPT ANALYSIS WORKSHEET – SALESPERSON EXEMPTION

This worksheet is to be used only as a guideline to determine exempt or non-exempt status. The completion of this worksheet does not imply or guarantee that the analysis of the position as exempt will be recognized as accurate by the Division of Labor Standards Enforcement.

Position: _____ Department: _____
Current Employee: _____
Supervisor: _____ Title: _____
Evaluator: _____ Date of Evaluation (Month/Day/Year) : _____

OUTSIDE SALES

An outside salesperson is exempt from the wage orders (i.e., minimum wage, overtime, meal/rest breaks, etc.) if both tests below are met:

1. Eighteen years of age or older.
Is employee 18 years of age or older? Yes No
2. Spends more than 50% of their working time *away from the employer's place of business* (not via telephone, e-mail or other electronic method), selling tangible or intangible items, or obtaining orders or contracts for products, services or use of facilities. Work performed incidental to and in conjunction with the employee's own outside sales or solicitations, including incidental deliveries and collections, is not considered exempt work (i.e. delivery, repair and maintenance).

List the employee's duties and the percentage of time required for each:

Duties

Percentage of Time

Note: Properly classified outside salespersons are exempt from the wage orders, thus are not required to meet the minimum salary requirement that applies to the executive, administrative and executive exemptions.

INSIDE SALES

An inside salesperson is one who sells merchandise in a store or sales lot (for example, car or RV sales lot) or one who sells a product or service primarily via a company telephone, e-mail or other electronic method. Certain inside sales employees working under Wage Orders 4 and 7 are exempt from overtime. This exemption applies to overtime only, not all other wage and hour laws (such as meal and rest breaks).

An inside salesperson may be exempt from overtime if both of the following tests are met:

1. The employee's earnings exceed one-and-one-half times the minimum wage for each hour worked on a weekly basis.

Employee's hours worked each week: _____
(*Current state minimum wage for 2026: \$16.90/hour x 1.5 = \$25.35 minimum for each hour worked*)

Total weekly earnings: \$ _____

2. More than half the employee's compensation represents commissions.

Total weekly commissions: \$ _____
(*must be at least 50% of weekly earnings*)

Note: If there is a guaranteed draw against commissions, the Labor Commissioner may consider that the earnings are not in fact commissions but rather a salary, and this exemption may therefore not apply.