Employee Wage Status: Exempt vs. Non-exempt

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BONA FIDE PROFESSIONALS

Determining the wage status for employees of professional service firms can sometimes be difficult. The following information resources from the U.S. Department of Labor (DOL) web site can be helpful in clearly establishing the wage status of your employees.

The job descriptions for employees of professional service firms, in order to be classified as exempt, must meet the criteria for a "bona fide professional as defined by the U.S. DOL at:

http://www.dol.gov/dol/allcfr/ESA/Title_29/Part_541/29CFR541.3.htm

(Note that the DOL URLs include underscore characters where there may appear to be blank spaces, such as after the words "Title" and "Part" above.)

LEARNED PROFESSIONS

The above-captioned site makes reference to the "learned professions" as a subset of "bona fide professionals." The definition of "learned professions" can be found at:

http://www.dol.gov/dol/allcfr/ESA/Title_29/Part_541/29CFR541.301.htm

DUTIES AND QUALIFICATIONS

Not all professional / technical employees of professional service firms are exempt. The exemption depends on the duties and qualifications of the individual employee. Information about the relationship between duties and qualifications and wage status can be found at:

http://www.dol.gov/dol/allcfr/ESA/Title_29/Part_541/29CFR541.308.htm

The principal criteria that determines whether an employee is exempt or non-exempt is whether or not the employee exercises "independent judgment" in the execution of his or her duties. "Independent judgment" is defined at:

http://www.dol.gov/dol/allcfr/ESA/Title_29/Part_541/29CFR541.305.htm

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