



Exempt vs. Nonexempt Classification File

Build a defensible exemption file per position: salary basis, salary level, duties test, and a review date — before the DOL builds theirs.

WHAT THIS HELPS YOU DO

Use this file to document why each exempt position is exempt — salary basis, salary level, and an honest duties analysis against the actual job — creating the record that defends the classification or reveals it needs to change.

WHEN TO USE THIS DOCUMENT

- When creating any new salaried position
- Before promoting someone into an 'exempt' role
- When DOL salary thresholds change
- When a job's actual duties have drifted from its description
- Any time someone asks 'why is this position exempt?' and no one has a written answer

WHAT THIS DOCUMENT HELPS PREVENT

- Misclassification liability: back overtime for every affected week, times every incumbent
- 'Salaried means exempt' folklore driving classification
- Manager titles with no management duties behind them
- Improper salary deductions quietly destroying the salary basis
- Reclassification scrambles when thresholds move

Faulkner HR Solutions focuses on the system behind the people problem. This tool is designed to help employers slow down the decision, identify the risk, and create proof before the issue becomes a claim, complaint, turnover event, or credibility problem.

BEFORE YOU START: READINESS CHECKLIST

Gather the following before working through this document. Incomplete inputs are one of the most common reasons employer decisions fail under later scrutiny.

Have it	Input	Notes / location
<input type="checkbox"/>	Employee name and role	
<input type="checkbox"/>	Date of incident, request, or separation	



Have it	Input	Notes / location
<input type="checkbox"/>	Supervisor involved	
<input type="checkbox"/>	Policy or handbook section that applies	
<input type="checkbox"/>	Prior documentation on file	
<input type="checkbox"/>	Pay records, if applicable	
<input type="checkbox"/>	Relevant emails, texts, notes, or complaints	
<input type="checkbox"/>	Decision-maker name	
<input type="checkbox"/>	Deadline, if applicable	



CLASSIFICATION FILE

Exemption requires passing all three tests — salary basis, salary level, and duties. Title and payroll status prove nothing. Complete one file per position, not per person.

Part 1 — Position Snapshot

Position title and department	
Incumbent(s) and supervisor	
Current salary / salary range	
Claimed exemption (executive, administrative, professional, computer, outside sales, HCE)	
Job description last updated (attach it)	

Part 2 — Salary Basis Test

Met	Salary basis element	Notes
<input type="checkbox"/>	Predetermined salary paid regardless of quantity or quality of work	
<input type="checkbox"/>	No deductions for partial-day absences	
<input type="checkbox"/>	No deductions for variations in workload or business slowdowns	
<input type="checkbox"/>	Any deductions taken fit the permitted list (full-day personal absences, certain disciplinary suspensions, FMLA)	
<input type="checkbox"/>	A safe-harbor policy exists for improper deduction complaints	

Part 3 — Salary Level Test

Current DOL minimum salary threshold (verify — it changes)	
This position's salary vs. the threshold	
Highly compensated employee threshold, if HCE exemption claimed	
Date threshold last checked	

Part 4 — Duties Test (the one that fails)

Answer from what the person actually does all week — not the job description's aspirations. Estimate real time percentages.



Exemption	Core requirements	Met?
Executive	Primary duty is management; regularly directs 2+ FTEs; authority or real influence over hiring/firing	
Administrative	Office/non-manual work directly related to management or general business operations; exercises discretion and independent judgment on significant matters	
Professional	Advanced knowledge in a field of science or learning, from prolonged specialized instruction; or recognized creative talent	
Computer	Systems analysis, design, development at the required skill level (not help desk/support)	
Outside sales	Primary duty is sales, customarily and regularly away from the employer's place of business	

Part 4a — Duties Evidence

Primary duty in one sentence (what the role exists to do)	
% of week on exempt-level duties vs. production/routine work	
For executive: who do they supervise, and what hiring/firing input is documented?	
For administrative: name three significant decisions made without approval	
Duties confirmed with (incumbent / supervisor / observation)	

Part 5 — Comparison and Consistency

Checked	Consistency question	Findings
<input type="checkbox"/>	Do others with the same duties carry the same classification?	
<input type="checkbox"/>	Does the job description match the duties evidence above? (Update whichever is wrong)	
<input type="checkbox"/>	Do nonexempt employees perform materially the same work?	
<input type="checkbox"/>	Texas note: no state overtime law beyond FLSA, but municipal/public-sector rules may differ — verified?	

Part 6 — Decision and Review

Classification decision (exempt under ___ / nonexempt)	
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Decided by (manager + HR approval)	
Effective date	
Next review date (annually, and at any threshold change or duty shift)	
If reclassifying: transition plan owner (timekeeping, OT budget, communication)	

Role	Name / signature	Date
Prepared by		
Manager		
HR approval		

STOP AND REVIEW BEFORE ACTING

If any statement below is true, pause. Get the decision reviewed by HR, counsel, or Faulkner HR Solutions before you act.

- An exempt 'manager' spends most of the week doing the same work as their crew.
- Partial-day salary docking is happening anywhere.
- The salary threshold moved and no one re-checked the marginal positions.
- Exempt classification was assigned because the employee 'wanted salary.'
- The same job is exempt in one department and nonexempt in another.
- An exempt employee is tracking hours 'informally' and grumbling about unpaid overtime.

MINIMUM DOCUMENTATION STANDARD

Before this file is closed, the employer should be able to answer every question below and point to where the proof lives.

Question	Your answer / where the proof is stored
What happened?	
When did it happen?	
Who observed or reported it?	



Question	Your answer / where the proof is stored
What policy, standard, deadline, or expectation applies?	
What decision was made?	
Who had authority to make the decision?	
What alternatives were considered?	
What risk was reviewed?	
What follow-up is required?	
Where is the proof stored?	

COMMON MISTAKES

1. Classifying by title or salary alone — the duties test decides, and it's the one nobody documents.
2. Confusing 'paid a salary' with 'exempt from overtime.'
3. Counting a working foreman's incidental oversight as 'management' as a primary duty.
4. Stretching 'administrative' to cover skilled production work without independent judgment on significant matters.
5. Never re-reviewing after duties drift or thresholds change.
6. Reclassifying abruptly with no communication plan, converting a fix into a morale event and an invitation to look backward.

WHAT TO DO NEXT

File one completed classification file per exempt position and calendar the annual review. For any position that failed a test, quantify the look-back exposure before acting, then plan the reclassification carefully — timing, communication, and correction strategy deserve as much thought as the classification itself.

Before you terminate, deduct, discipline, classify, or respond, get the decision reviewed.

Call 210.446.8730 or email thomas@faulknerhrsolutions.info.



Before you process payroll, terminate, classify, deduct, or respond to a claim, get the decision reviewed.

Need help applying this to a real workplace decision?

Faulkner HR Solutions helps Texas employers, nonprofits, municipalities, and growing businesses fix the people systems behind recurring workplace problems.

If this document raised a risk flag, do not guess your way through the next step.

Call: 210.446.8730

Email: thomas@faulknerhrsolutions.info

Website: faulknerhrsolutions.info

DISCLAIMER

This resource is provided for general employer education and planning purposes. It is not legal advice and does not create an attorney-client relationship. Employment laws, agency guidance, and local requirements may change. Employers should review the facts of each situation before acting and consult appropriate HR or legal counsel when needed.