

EXECUTIVE EXEMPTION WORKSHEET

Job Title: _____ Department: _____

Worksheet Determination: _____ **Exempt** _____ **Non-Exempt**

Important Reminder: The Department of Labor enforces the FLSA and makes the final decision as to whether this position is exempt or non-exempt

Instructions: Review the current job description for this position before answering the questions below. **In order to classify this position as exempt, the answer to each of the questions must be “yes.”**

Note: When completing this worksheet for a position that has two or more incumbents, you must be able to answer all of the questions with a “yes” for each individual employee. If the answer to any question is “no” for one employee, that individual employee should be classified as non-exempt. This would not, however, automatically negate the exemption for the other incumbents so long as their answer is “yes” to the question.

SALARY LEVEL TEST

	Yes	No	Comments
1. Does the employee currently earn \$937.50* (NY State) or more per week? Current weekly salary: \$ _____ *\$1,125 NYC employers; \$1,050 Downstate employers (Nassau, Suffolk, Westchester Counties)	<input type="checkbox"/>	<input type="checkbox"/>	

SALARY BASIS TEST

2. Does the employee regularly receive a predetermined amount of compensation each pay period?	<input type="checkbox"/>	<input type="checkbox"/>	
3. Does the employee receive full salary without any deductions even if there are variations in the quality or quantity of the employee’s work?	<input type="checkbox"/>	<input type="checkbox"/>	
4. Does the employee receive full salary for working less than a full workweek due to absences caused by the employer or the operating requirements of the company?	<input type="checkbox"/>	<input type="checkbox"/>	
5. Are only full day salary deductions taken from the employee’s pay (no partial day deductions except for FMLA absences)?	<input type="checkbox"/>	<input type="checkbox"/>	
6. Are unpaid suspensions for full weeks only unless for major safety or workplace conduct rules?	<input type="checkbox"/>	<input type="checkbox"/>	

DUTIES TEST

7. Is the employee’s primary duty ¹ management ² of the enterprise or a customarily recognized department or subdivision? Name of dept/subdivision: _____	<input type="checkbox"/>	<input type="checkbox"/>	
8. Does the employee customarily and regularly ³ direct the work of at least two full-time employees or their equivalent (e.g., four half-time employees)? # of full-time employees supervised: _____ # of part-time employees supervised: _____	<input type="checkbox"/>	<input type="checkbox"/>	
9. Does the employee have the authority to hire or fire, or whose recommendations for hiring, firing, and other changes in status are given particular weight ⁴ ?	<input type="checkbox"/>	<input type="checkbox"/>	

DUTIES TEST FOR BUSINESS OWNERS

	Yes	No	Comments
1. Is the employee actively engaged in managing ² the business?			
2. Does the employee own at least a bona fide 20% equity interest in the business?			

¹"Primary duty" means the principal, main, major, or most important duty the employee performs. Determination of an employee's primary duty must be based on all the facts in a particular case, with the major emphasis on the character of the employee's job as a whole.

²Examples of management duties include, but are not limited to, interviewing applicants, training and directing the work of employees, maintaining records for supervisory or control purposes, conducting performance appraisals, disciplining employees, and preparing and monitoring the department budget.

³"Customarily and regularly" means greater than occasional but less than constant. Includes work normally and recurrently performed every workweek but does not include isolated or one-time tasks.

⁴In determining if an employee's recommendations are given "particular weight," consider if it is part of the employee's job to make such recommendations for the employees he/she supervises and the frequency with which such recommendations are made, requested, and relied upon. Even if an employee does not have the authority to make the final decision or a higher level manager's recommendation has more importance, the employee's recommendations may still meet the "particular weight" threshold.

This worksheet was completed by

Name: _____ Date: _____