

# OUTSIDE SALES 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**

Note: There is no salary level test for the outside sales exemption

**SALARY BASIS TEST**

**Yes      No      Comments**

1. Are only full day salary deductions taken from the employee’s pay (no partial day deductions except for FMLA absences)?			
2. Are unpaid suspensions for full weeks only unless for major safety or workplace conduct rules?			

**DUTIES TEST**

3. Does the employee’s job involve outside sales <sup>1</sup> ?			
4. Is the employee’s primary duty <sup>2</sup> making sales or obtaining orders or contracts for services or for the use of facilities <sup>3</sup> for which a consideration will be paid by the customer? Primary duty: _____			
5. Does the employee customarily and regularly <sup>4</sup> work away from the employer’s place(s) of business when performing the above duties?			

<sup>1</sup>“Outside sales” involves sales at a customer’s place of business or home. It does not include sales made by mail, telephone, or via the Internet unless such contact is used to supplement the personal visit.

<sup>2</sup>“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.

<sup>3</sup>“Use of facilities” includes the selling of time on radio or tv, the solicitation of advertising for newspapers, and the solicitation of freight for railroads.

<sup>4</sup>“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.

This worksheet was completed by

Name: \_\_\_\_\_ Date: \_\_\_\_\_