

Wage and Hour Division, Labor

§541.211

routine function not directly and closely related to the exempt work and must be considered nonexempt.

(f) An office manager who does not supervise two or more employees would not meet the requirements for exemption as an executive employee but may possibly qualify for exemption as an administrative employee. Such an employee may perform administrative duties, such as the executive of the employer's credit policy, the management of the company's traffic, purchasing, and other responsible office work requiring the customary and regular exercise of discretion and judgment, which are clearly exempt. On the other hand, this office manager may perform all the bookkeeping, prepare the confidential or regular payrolls, and send out monthly statements of account. These latter activities are not directly and closely related to the exempt functions and are not exempt.

§541.209 Percentage limitations on nonexempt work.

(a) Under §541.2(d), an employee will not qualify for exemption as an administrative employee if he devotes more than 20 percent, or, in the case of an employee of a retail or service establishment if he devotes as much as 40 percent, of his hours worked in the workweek to nonexempt work; that is, to activities which are not directly and closely related to the performance of the work described in §541.2 (a) through (c).

(b) This test is applied on a workweek basis and the percentage of time spent on nonexempt work is computed on the time worked by the employee.

(c) The tolerance for nonexempt work allows the performance of nonexempt manual or nonmanual work within the percentages allowed for all types of nonexempt work.

(d) Refer to §541.112(b) for the definition of a retail or service establishment as this term is used in paragraph (a) of this section.

§541.210 Trainees, administrative.

The exemption is applicable to an employee employed in a bona fide administrative capacity and does not include employees training for employment in an administrative capacity

who are not actually performing the duties of an administrative employee.

§541.211 Amount of salary or fees required.

(a) Except as otherwise noted in paragraphs (b) and (c) of this section, compensation on a salary or fee basis at a rate of not less than \$155 a week, exclusive of board, lodging or other facilities, is required for exemption as an administrative employee. The requirement will be met if the employee is compensated biweekly on a salary basis of \$310, semimonthly on a salary basis of \$335.84, or monthly on a salary basis of \$671.67.

(b) In Puerto Rico, the Virgin Islands, and American Samoa, the salary test for exemption as an administrative employee is \$125 per week for other than an employee of the Federal Government.

(c) In the case of academic administrative personnel, the compensation requirement for exemption as an administrative employee may be met either by the payment described in paragraph (a) or (b) of this section, whichever is applicable, or alternatively by compensation on a salary basis in an amount which is at least equal to the entrance salary for teachers in the school system, or educational establishment or institution by which the employee is employed.

(d) The payment of the required salary must be exclusive of board, lodging, or other facilities; that is, free and clear. On the other hand, the regulations in subpart A of this part do not prohibit the sale of such facilities to administrative employees on a cash basis if they are negotiated in the same manner as similar transactions with other persons.

[38 FR 11390, May 7, 1973, as amended at 40 FR 7093, Feb. 19, 1975]

EFFECTIVE DATE NOTE: Paragraphs (a) and (b) in §541.211 were revised at 46 FR 3014, Jan. 13, 1981. In accordance with the President's Memorandum of January 29, 1981 (46 FR 11227, Feb. 6, 1981), the effective date was postponed indefinitely at 46 FR 11972, Feb. 12, 1981.

The text of paragraphs (a) and (b) set forth above remains in effect pending further action by the issuing agency. The text of the postponed regulation appears below.