

the morning and perform in the course of his examinations essentially similar tests. It requires not only judgment and discretion on his part but a continual variety of interpretation of the tests to perform satisfactory work. Likewise, although a professional chemist may make a series of similar tests, the problems presented will vary as will the deductions to be made therefrom. The work of the true professional is inherently varied even though similar outward actions may be performed.

(b) Another example of this is the professional medical technologist who performs complicated chemical, microscopic, and bacteriological tests and procedures. In a large medical laboratory or clinic, the technologist usually specializes in making several kinds of related tests in areas such as microbiology, parasitology, biochemistry, hematology, histology, cytology, and nuclear medical technology. The technologist also does the blood banking. He will also conduct tests related to the examination and treatment of patients, or do research on new drugs, or on the improvement of laboratory techniques, or teach and perform administrative duties. The simple, routine, and preliminary tests are generally performed by laboratory assistants or technicians. However, technologists who work in small laboratories may perform tasks that are performed by nonexempt employees in larger establishments. This type of activity will not necessarily be considered nonexempt (see § 541.307).

(c) On the other hand, X-ray technicians have only limited opportunity for the exercise of independent discretion and judgment, usually performing their duties under the supervision of a more highly qualified employee. The more complex duties of interpretation and judgment in this field are performed by obviously exempt professional employees.

§ 541.307 Essential part of and necessarily incident to.

(a) Section 541.3(d), it will be noted, has the effect of including within the exempt work activities which are an essential part of and necessarily incident to the professional work described

in § 541.3 (a) through (c). This provision recognizes the fact that there are professional employees whose work necessarily involves some of the actual routine physical tasks also performed by obviously nonexempt employees. For example, a chemist performing important and original experiments frequently finds it necessary to perform himself some of the most mental tasks in connection with the operation of his experiments, even though at times these menial tasks can be conveniently or properly assigned to laboratory assistants. See also the example of incidental interviewing or investigation in § 541.303(a)(3).

(b) It should be noted that the test of whether routine work is exempt work is different in the definition of "professional" from that in the definition of "executive" and "administrative." Thus, while routine work will be exempt if it is "directly and closely related" to the performance of executive or administrative duties, work which is directly and closely related to the performance of the professional duties will not be exempt unless it is also "an essential part of and necessarily incident to" the professional work.

(c) Section 541.3(d) takes into consideration the fact that there are teaching employees whose work necessarily involves some of the actual routine duties and physical tasks also performed by nonexempt employees. For example, a teacher may conduct his pupils on a field trip related to the classroom work of his pupils and in connection with the field trip engage in activities such as driving a school bus and monitoring the behavior of his pupils in public restaurants. These duties are an essential part of and necessarily incident to his job as teacher. However, driving a school bus each day at the beginning and end of the school's day to pick up and deliver pupils would not be exempt type work.

§ 541.308 Nonexempt work generally.

(a) It has been the Divisions' experience that some employers erroneously believe that anyone employed in the field of accountancy, engineering, or other professional fields, will qualify for exemption as a professional employee by virtue of such employment.