**What do the terms ‘exempt,’ ‘nonexempt,’ ‘salaried’ and ‘hourly’ mean?**

**Exempt:** An individual who is exempt from the overtime provisions of the Fair Labor Standards Act (FLSA) because he or she is classified as an executive, professional, administrative or outside sales employee, and meets the specific criteria for the exemption. Certain computer professionals may also be exempt. With some limited exceptions, exempt employees must be paid on a [salary basis](http://www.dol.gov/whd/overtime/fs17g_salary.pdf).

**Nonexempt:** An individual who is not exempt from the overtime provisions of the FLSA and is therefore entitled to overtime pay for all hours worked beyond 40 in a workweek (as well as any state overtime provisions). Nonexempt employees may be paid on a salary, hourly or other basis.

**Salaried:** An individual who receives the same salary from week to week regardless of how many hours are worked. Exempt employees must be paid on a salary basis, as discussed above. Nonexempt employees may be paid on a salary basis for a fixed number of hours or under the [fluctuating workweek method](https://www.shrm.org/ResourcesAndTools/tools-and-samples/hr-qa/Pages/fluctuating-workweek-method-and-belo-contract.aspx). Nonexempt employees paid a salary must still receive overtime in accordance with federal and state laws.

**Hourly**: An individual who receives an hourly wage for work performed. Generally, such individuals, because of the method of payment, are classified as nonexempt and are subject to the overtime provisions of the FLSA. Exempt computer professionals may also be paid on an hourly basis, as could those exempt under the professional exemption, such as teachers, lawyers, doctors, and still retain their exempt status.

Overtime laws in Montana and nationally are designed to prevent workers from being exploited by their employers, with hourly wage earners (particularly those in blue-collar indistries) being the primarily protected group. Because of the nature of the work environment and working hours required by certain careers, there are a wide variety of specific exemptions to Montana overtime eligibility. Out of an estimated 120 million workers in America, almost 50 million are exempt from overtime law.

Executives, administrators, and other professionals earning at least $455 per week do not have to be paid overtime under Section 13(a)(1) of the [Fair Labor Standards Act](https://www.minimum-wage.org/articles/fair-labor-standards-act).

External salespeople (who often set their own hours) are also exempted from MT overtime requirements, as are some types of computer-related workers. Independent contractors, who are not considered legal employees, are also exempt from overtime law. Other exempt positions include some transportation workers, certain agricultural and farm workers, and some live-in employees such as housekeepers.

In order to determine if a job is exempt from overtime, the FLSA provides a series of tests to determine the overtime eligibility of an employee based on pay rate, working conditions, skill level, and other factors.