Fact Sheet #17K: Veterans and the Part 541 Exemptions Under the Fair Labor Standards Act (FLSA)

The FLSA requires that most employees in the United States be paid at least the federal minimum wage for all hour worked and overtime pay at time and one-half the regular rate of pay for all hours worked over 40 in a workweek. However, Section 13(a)(1) of the FLSA provides an exemption from both minimum wage and overtime pay for employees employed as bona fide executive, administrative, professional and outside sales employees. Section 13(a)(1) and Section 13(a)(17) also exempts certain computer employees. To qualify for exemption, employees must meet certain tests regarding their job duties and be paid on a salary basis at not less than $455* per week.

Veterans

Veterans are not exempt administrative, executive or professional employees under Section 13(a)(1) based upon their status as veterans. Military training, for example, generally is not sufficient to meet the requirements for the professional exemption. Specifically, the learned professional exemption requires:

1. The employee’s primary duty must be to perform work requiring advanced knowledge;
2. The advanced knowledge must be in a field of science or learning; and
3. The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

No amount of military training will satisfy the requirements of the learned professional exemption because the exemption applies only to employees who are in occupations that have attained recognized professional status, which requires that an advanced specialized academic degree is a standard prerequisite for entrance into the profession. No amount of military training can turn a “blue collar” occupation or a technical field into a profession. For example, a veteran who has received substantial military training as a veteran but works on a manufacturing production line or as an engineering technician is not exempt under Section 13(a)(1) from the minimum wage and overtime requirements of the FLSA.

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: http://www.wagehour.dol.gov and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

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Note (added January 2018):

*The Department of Labor is undertaking rulemaking to revise the regulations located at 29 C.F.R. part 541, which govern the exemption of executive administrative, and professional employees from the Fair Labor Standards Act’s minimum wage and overtime pay requirements. Until the Department issues its final rule, it will enforce the part 541 regulations in effect on November 30, 2016, including the $455 per week standard salary level. These regulations are available at: https://www.dol.gov/whd/overtime/regulations.pdf