



Primary Duty \ Definition

To qualify as exempt from the FLSA, an employee's "primary duty" must be the performance of exempt work. "Primary duty" is defined as the "principal, main, major or most important duty that the employee performs." Factors to consider when determining an employee's primary duty or duties includes, but is not limited to:

- The relative importance of the exempt duties as compared with other types of duties
- The amount of time spent performing the major or most important duty
- The employee's relative freedom from direct supervision
- The relationship between the employee's salary and the wages paid to other employees for the kind of non-exempt work performed by the employee

Time Spent Performing Exempt Work

The amount of time spent performing the specific duty can be a useful guide in determining whether such work is the primary duty of an employee. Thus, employees who spend more than 50 percent of their time performing a specific duty will generally satisfy the primary duty requirement. Time alone, however, is not the sole test, and nothing requires that exempt employees spend more than 50 percent of their time performing a specific duty.

Employees who do not spend more than 50 percent of their time performing their major or most important duty may nonetheless meet the primary duty requirement if the other factors (listed above) support such a conclusion. However, the Department of Labor has previously issued guidance in which it determined that teaching was not a primary duty for an athletic coach who engaged in teaching for only 25% of their duties. Due to the subjective nature of the "primary duty" analysis, a careful and close review of an employee's duties must be conducted where an employee is determined to be exempt but where it is also undisputed that a significant portion of the duties are non-exempt.

References

[29 CFR 541.700](#)

Department of Labor, Wage and Hour Division, *Opinion Letter Fair Labor Standards Act (FLSA)*, August 24, 1998, 1998 WL 1147720

[US DOL FLSA Overtime Security Advisor](#)

