

# SHEEHAN PHINNEY

#4 of 9 Checklists in Series

## Overtime Exemption Worksheets

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### Introduction

*With the changes to the Fair Labor Standards Act (FLSA) overtime exemptions (effective December 1, 2016) we prepared the following checklists for use by clients as they evaluate their overtime exemptions in their workplace. These checklists are intended as general outlines and guides to the Final Rule to update FLSA overtime white collar exemptions. These checklists are not intended as a substitute for specific legal advice.*

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### **FLSA OUTSIDE SALES EXEMPTION CHECKLIST<sup>1</sup>**

#### Check if Applicable:

- 1. Employee's **primary duty** is **making sales<sup>2</sup>**, or obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer; **AND**
- 2. The employee must be customarily and regularly engaged **away from the employer's place or places of business.**

**Note:** *Salary requirements do not apply to this exemption.*

*If **BOTH** boxes are checked in this section then the employee qualifies for the exemption from the FLSA's minimum wage and overtime requirements as an outside sales employee.*

**Note:** *If possible, attach recent copy of job description or analysis of job functions to support this exemption assessment.*

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<sup>1</sup> If employee does not qualify for the Outside Sales Exemption, he or she may qualify for the Administrative Exemption. (See checklist #2)

<sup>2</sup> "Sales" includes any sale, exchange, contract to sell, consignment for sales, shipment for sale, or other disposition. It includes the transfer of title to tangible property, and in certain cases, of tangible and valuable evidences of intangible property.



**CERTIFICATION/ACKNOWLEDGMENT**

We certify that the information contained in this checklist is true and correct.

\_\_\_\_\_  
Employer's Signature

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date