

**5200.0180 EXECUTIVE, ADMINISTRATIVE, AND PROFESSIONAL PERSONNEL.**

Subpart 1. **Duties determine status.** The primary duties of the employee are determinative of his or her status under this exemption. Only where the employee's primary duties meet all the criteria under a particular test may the employer consider the employee to be exempt from the overtime wage provisions.

Subp. 2. **Definition of manage.** For purposes of parts 5200.0180 to 5200.0210, the term "manage" means to control and direct the business operations of a given enterprise, department, or branch establishment. Duties involved in managing must involve the making of decisions and the issuance of directions to other employees which involve skill and judgment. The term includes those employees that act primarily and principally in a directive capacity as opposed to those who primarily do the actual work.

Subp. 3. **Discretionary powers.** The thrust of this criterion is to distinguish between those employees empowered to independently commit their employers on matters of importance and those employees who merely make day-to-day decisions which, although necessary to the daily operations of the employer's business, are routine, or follow prescribed procedures, or involve a determination of whether specific standards are met, or are lacking in substantial importance to the employer's business as a whole. One test which should be utilized in determining whether an employee exercises discretionary powers is to ask whether the decisions being made involve a discretion as to company policy or procedure or commit the employer on matters of substantial importance. Mere recommendations with respect to policies and procedures are not sufficient unless it can be shown that the employer consistently accepted and followed those recommendations.

Subp. 4. **Sole charge.** Only one employee per enterprise, department, or branch establishment may be considered to be in sole charge regardless of the number of work shifts per day.

Subp. 5. **Determination of exempt and nonexempt work.** In determining exempt and nonexempt work under parts 5200.0180 to 5200.0210, work directly related to executive or administrative work may be included if the executive work which it relates to is actually performed by the employee. It is not sufficient to claim certain work is exempt where the executive or administrative function it might be directly related to is not performed by the employee.

**Statutory Authority:** *MS s 177.28*

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