Appendix II: Flowchart—Determining Exemption Status Under the FLSA’s Final Regulations

**“Salary Test”**

Does the employee earn at least $455 per week paid on a salary basis? (Note: An administrative, professional, or computer employee may be paid on a fee basis and still pass the salary test. Also, there is no salary threshold for outside sales employees.)

**“Duties Test”**

Is the employee a computer professional who earns $27.63 or more per hour?

**“Executive Exemption” “Administrative Exemption”**

The management of the enterprise or a recognized department or subdivision?

**“Learned Professional Exemption”**

Performing office or nonmanual work directly related to the management or general business operations of the employer or employer’s customers?

**“Creative Professional Exemption”**

Performing work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction?

**“Computer Exemption”**

Performing work requiring invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor?

**“Outside Sales Exemption”**

Making sales 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?

Notes:

- Employees in American Samoa only need to earn $380 per week to qualify under the salary test.
- Highly compensated employees (those who earn at least $100,000 annually) are exempt if they customarily and regularly perform any one or more of the exempt duties or responsibilities of an executive, administrative, or professional employee; earn at least $455 per week paid on a salary or fee basis; and have the primary duty of performing office or nonmanual work.