## **Exempt or Nonexempt?**

Every employee must be classified as exempt or nonexempt. The default is nonexempt; you are not *required* to treat any employee as exempt. **Before using this chart,** learn about the Fair Labor Standards Act (FLSA) and exemption criteria on our Worker Classification page:



UUA Office of Church Staff Finances

https://www.uua.org/leaderlab/worker-classification.

**Important:** Ministers and some program staff may be classified as exempt through the **ministerial exception**. There is no salary requirement, but these workers must have **essential religious duties**. See our materials for more info. The chart below does not apply to those exempt under the ministerial exception.

Proceed with care! Use of the ministerial exception may result in the staff member's loss of various employment law protections.

Does the employee meet the salary threshold for the FLSA exemptions? (See threshold on Worker Classification page.)



Does the employee meet the *duties tests* for Executive, Administrative, or Professional exemption under the FLSA?







The employee is nonexempt. Are you considering paying a fixed salary (rather than hourly or per event)?



Exempt status allowed.



Keep records of daily and weekly hours worked. Be sure to pay minimum wage and overtime as required by federal and/or state law.

Salaried nonexempt status is legally allowed but tricky. You still must keep records of actual daily and weekly hours worked. Add to salary, if necessary, to meet minimum wage and overtime requirements based on actual hours worked in a workweek, as required by federal and/or state law. *Proceed with care*.

The preceding is for informational purposes only and does not constitute legal advice. Be aware of applicable state law. Congregations are solely responsible for legal obligations. Employers may wish to consult their own legal and tax advisers for guidance specific to their organization.