
29 C.F.R. § 779.302

Exemptions depend on character of establishment.

Some exemptions depend on the character of the establishment by which an employee is employed. These include the “retail or service establishment” exemptions in sections 13(a) (2), (4), and (11) and the exemptions available to the establishments of the character specified in sections 13(a) (3), (9), and 13(b)(8) (first part). Therefore, if the establishment meets the tests enumerated in these sections, employees “employed by” that establishment are generally exempt from sections 6 and 7. (See §§ 779.307 to 779.309 discussing “employed by.”) Other exemptions establish two criteria, the character of the establishment and the nature of the conditions of the employment of the particular employee. Such exemptions are set forth in section 13(b)(8) (second part), and section 13(b)(18) and (19). To determine whether the exemptions of these sections apply it is necessary to determine both that the establishment meets the enumerated tests and that the employee is engaged in the enumerated activities or employed under the conditions specified. Thus, under section 13(b)(18) some of the employees of a given employer may be exempt from the overtime pay requirements (but not the minimum wage) of the Act, while others may not.

This document is only available to subscribers. Please [log in](#) or [purchase access](#).

[Purchase Login](#)