

29 C.F.R. § 779.384

May qualify as exempt establishments.

Section 13(a)(9) of the Act as amended in 1966 exempts from the minimum wage and overtime pay requirements “any employee employed by an establishment which is a motion picture theater.” This exemption will be applicable irrespective of the annual dollar volume of sales of such establishment or of the enterprise of which it is a part. A motion picture theater may also qualify as an exempt retail or service establishment under section 13(a)(2) of the Act if the establishment meets all requirements of the exemption, discussed above in §§ 779.337 to 779.341. The term “motion picture theater” as used in section 13(a)(9) means a commercially operated theater primarily engaged in the exhibition of motion pictures with or without vaudeville presentations. It includes “drive-in motion picture theaters” commonly known as “open air” or “drive-in” theaters, but does not include such incidental exhibition of motion pictures as those offered to passengers on aircraft. “Legitimate theaters” primarily engaged in exhibiting stage productions are not “motion picture theaters.”

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