

by finance companies who call at the place of business of retail merchants dealing in furniture or appliances and bring to the merchant's attention the finance service that the finance company is prepared to offer to any of the merchant's customers who are in need of money for purchases, and who lay the groundwork for a continuing relationship between the finance company and the merchant. The finance man deals with the merchant and the merchant with his customers. The finance man is not exempt under Reg. 541.5, since he does not obtain orders or contracts from either the customers or the merchant.

22e05 Industrial insurance agents. Industrial insurance agents, sometimes called "debit men", call on persons to solicit insurance contracts and, once the contracts have been secured, they call on the insured to collect the premium and thus obtain a renewal of the policy. This renewal work is done on policies originally sold by the agents as well as on policies sold by other agents. Industrial insurance agents engaged in this activity are considered to meet all of the requirements of the outside salesman definition contained in Reg. 541.5, and thus qualify for the exemption.

22e06 Real estate salesmen. (a) The definition of an exempt "outside salesman" in Reg. 541.5 requires that such an employee be employed for the purpose of, and be customarily and regularly engaged in making "sales" within the meaning of Sec. 3(k) of the Act or in obtaining certain orders or contracts for the use of facilities. Real estate salesmen will generally meet this test, since "sales" under Sec. 3(k) of the Act include contracts to sell.

(b) An "outside salesman" must be customarily and regularly engaged "away from his employer's place or places of business" in making such sales. Real estate salesmen typically are required, as a customary and regular part of their employment, to spend whatever time is necessary at the site of property to be sold and in visiting prospects at the latter's homes and offices as a part of their sales effort. Most of them must leave whatever place of business of the employer they use as headquarters in order to perform these tasks.

(c) Real estate salesmen stationed in a model home on a tract from which parcels of real property are being sold with or without improvements, leaving the model home for such purposes, customarily and regularly, would meet the requirement of the definition, so far as making sales "away from" the employer's place of business is concerned. This is true even though all of the property shown to prospects by the salesman is within the tract on which the model home is located. Further, not every home called a "model home" would be a place of business of the employer. One which is in the nature of an "open house" to which a salesman is assigned to meet prospects who may buy that house or another similar one on the tract may more properly be viewed as analogous to the hotel sample room of a traveling salesman referred to in Reg. 541.502(b) than to an actual place of business of the employer.

Transitory assignments of salesmen permanently headquartered at an office of the employer who are sent to a "model home" or other location at a tract where it will be their duty to engage in sales efforts with respect to real estate on the tract would not defeat an otherwise applicable exemption. The salesman would ordinarily be considered to be engaged in such work "away from" the employer's place of business. On the other hand, when for purposes of convenience a "model home" on a real estate development is maintained on a relatively permanent basis as an office of the employer, staffed with necessary personnel for making sales, salesmen who do not customarily and regularly leave this headquarters as a part of their sales efforts would be "inside" rather than "outside" salesmen just as they would be if confined to such inside work in any other office maintained by the employer. For example, certain land or "homesites" are sold in this manner. Prospects are contacted by someone other than the land sales office salesmen and brought to the site where they usually are given a tour of the premises, meal, film or some other type of presentation showing reasons why they should purchase land at the site. The land office salesmen will attempt to "close" the agreement to purchase with the prospects. The salesmen do not customarily and regularly leave the site. In the case of real estate salesmen, however, this would appear to be the unusual, rather than the usual, case. So long as a salesman customarily and regularly goes to the site of the property or to prospects as a part of making his sales, this requirement for "outside" sales work would be met. Moreover, time spent on return to the model home or other headquarters to conclude a sales transaction or to continue sales effort with the prospect would be deemed part of the salesman's outside sales activity.

- (d) See FOH 59c01 for the WE position concerning the applicability of Sec 13(a)(1) for outside salespersons to employees who sell lots at campgrounds.
- (e) Certain activities performed by real estate salesmen in the employer's place of business may be exempt work if the activities performed are in conjunction with and in furtherance of their outside sales work. In this connection, the following activities may be exempt:
 - (1) Bringing a multiple listing book up to date.
 - (2) Calling prospects with whom the salesman has been dealing during his outside sales activity.
 - (3) Dictating or writing letters to such prospects.
 - (4) Talking to such prospects in the office about their particular transactions.
 - (5) Calling a list of prospective buyers or sellers of homes with whom the salesman has had no prior contact.