

STATE OF MONTANA
DEPARTMENT OF LABOR AND INDUSTRY
INDEPENDENT CONTRACTOR EXEMPTION CERTIFICATE AFFIDAVIT
FOR CORPORATE OFFICERS AND MANAGERS OF MANAGER MANAGED LIMITED LIABILITY COMPANIES
APPLICATION FOR TWO (2) YEAR EXEMPTION
NONREFUNDABLE FEE \$125



State of _____)
County of _____) : SS

I, _____, being first duly sworn, state:
(Applicant's name)

1. I am making these statements and representations in order to apply for an independent contractor exemption certificate with the Montana Department of Labor and Industry (Department). I understand the Department is relying on the truth and accuracy of these statements when approving my independent contractor exemption certificate.

2. The business structure of the business I hold a position in is (circle one): Corporation Manager Managed LLC

My name is: _____
(Last) (First) (Middle)

My mailing address is: _____
(Street or PO Box) (City) (State) (Zip)

My business name is: _____
(Name of business)

The business' physical address is: _____
(Street or directions to physical location) (City) (State) (Zip)

My telephone number is: (____) _____ - _____ My social security number is: _____ - _____

You are required to notify the Department if any of the above information changes after the certificate is granted.

3. I hold a position with a corporation or manager-managed limited liability company registered with the Montana Secretary of State. The occupation(s), trade or profession for which I am applying is/are: _____

I am providing documentation to the Department that demonstrates registration of the corporation or LLC with the Montana Secretary of State and which shows the business is an active, established business related to the occupation(s), trade or profession listed above. (See instructions on back)

4. I am an (circle one) officer of a corporation or manager of a manager-managed limited liability company who qualifies under one or more of the following provisions:

Circle one: **president** **vice president** **secretary** **treasurer** **manager**

AND;

I either (please indicate which category you meet):

_____ own 20% or more of the number of shares of stock in the corporation or own 20% or more of the limited liability company; or

_____ own less than 20% of the number of shares of stock in the corporation or limited liability company, but when my ownership is aggregated with the shares owned by a person or persons listed in the third category, the total is 20% or more of the number of shares in the corporation or limited liability company; or

_____ I am the spouse, child, adopted child, stepchild, mother, father, son-in-law, daughter-in-law, nephew, niece, brother, or sister of a corporate officer who meets one of the requirements above.

5. When acting as an independent contractor I must be free from control or direction over the performance of my services and the details of my work, both under contract and in fact. The hiring agent only offers direction and exercises control in matters essential to specifying the end result.

6. I understand and agree that as a qualifying corporate officer or manager of a manager managed LLC, I am exempt from the requirements of the Workers' Compensation Act of Montana as provided by § 39-71-401(2)(r)(iii) or (iv), MCA, but that I may voluntarily elect workers' compensation coverage for myself. I also understand and agree that if my independent contractor exemption certificate is granted, I waive all my rights to voluntarily obtain coverage for work performed under the certificate. I further understand I am precluded from obtaining benefits under the Act from the hiring agent related to my work performance as an independent contractor. I understand and agree that I am responsible for the taxes related to my work as an independent contractor. I understand that as an independent contractor I will not be afforded protections under the Wage Payment Act, the Human Rights Act, or the Workers' Compensation Act. However, I also understand that as a corporate officer for a corporation or a manager of a manager-managed LLC, I am not exempt from Montana's Unemployment Insurance laws, and must report my wages to the Unemployment Insurance Division.

7. I also understand that if granted, the independent contractor exemption certificate will remain in effect for TWO years for the occupations listed on the certificate, unless I notify the Department in writing that I want to have the exemption cancelled, or the Department revokes or suspends the independent contractor exemption certificate. I understand that if I want to maintain my independent contractor exemption, I will have to re-qualify every two years.

By signing this affidavit and the associated waiver form, I understand and agree that if my independent contractor exemption certificate is granted I WAIVE ALL MY RIGHTS TO OBTAIN COVERAGE AND BENEFITS THAT I MAY HAVE UNDER MONTANA'S WORKERS' COMPENSATION ACT. I further declare that I am 18 years old or older, and that all of the information I have supplied in and with this Affidavit is true.

By: _____
Applicant Signature

SUBSCRIBED AND SWORN before me this ____ day of _____, 20__.

Signature of Notary Public

Printed Name of Notary Public
Residing at _____

(Notarial seal)

My commission expires _____

Notaries Please Note

Please put applicant under oath
before executing this affidavit.
This is a sworn statement.

Notice to Applicants: Montana law provides for a civil penalty of up to \$1,000 for each violation of the following: A person may not perform work as an independent contractor without obtaining either workers' compensation insurance or an independent contractor exemption certificate; perform work as an independent contractor when the Department has revoked or denied the independent contractor's exemption certificate; transfer to another person or allow another person to use an independent contractor exemption certificate that was not issued to that person; alter or falsify an independent contractor exemption certificate; and/or misrepresent the person's status as an independent contractor. The Department has the authority to investigate your working relationships as an independent contractor. If through investigation, the Department determines you are acting as an employee, this exemption may be suspended or revoked.

Notice to Employers: Montana law prohibits employers from avoiding their responsibility to provide workers' compensation insurance for employees. An employer may not require an employee through coercion, misrepresentation, or fraudulent means to adopt independent contractor status or exert control to a degree that destroys the independent contractor relationship. In addition to any other penalty or sanction, a person or employer who violates a provision of the law is subject to a fine to be assessed by the Department of up to \$1,000 for each violation.

Notice to Hiring Agents: You can be found to be an employer if you have the right to control or exercise control over the worker. A person who violates a provision of the law is subject to a fine to be assessed by the Department of up to \$1,000 for each violation.

INSTRUCTIONS

1. Complete this form only if you are an officer of a corporation or a manager of a manager-managed limited liability company and do not want workers' compensation on yourself. Independent contractor exemption certificates are issued to an individual. Each person requesting an exemption must complete his or her own forms.
2. If you understand all of the statements on the affidavit and waiver form and believe you qualify as an independent contractor, complete the forms in the manner identified below. The waiver is a legal document that when signed waives statutory workers' compensation benefits.
3. Both the affidavit and waiver form must be completed entirely or your application may be denied. **DO NOT USE WHITEOUT;** If you need to make any corrections, cross out the error, make the correction in ink, and initial.
4. On the top of the affidavit and the bottom of the waiver form, provide the State and County in which the document is being notarized.
5. In paragraph 2 of the affidavit form, provide the following information, written in blue or black ink:
 - My business structure is (circle the appropriate structure)
 - My name is (include your full individual name)
 - My mailing address is (include the number, street, city, state and zip code)
 - My business name is (this must be your business name or individual name, and it must match your business documentation)
 - My business' physical address (include the number, street, city, state and zip code)
 - My telephone number is
 - My social security number is (please do not use X's, unless sent to you by the Department in that manner)
6. In paragraph 3 of the affidavit form, you must list all occupations for which you are claiming an independent contractor exemption certificate. An applicant must score 15 points for each different occupation listed. Please refer to the list of documentation on the back of the waiver form. The Department has the discretion to assess the reliability of the documentation in order to award points for the items submitted.
7. If you agree to waive your rights, initial the statements on the waiver, sign the bottom of the affidavit and waiver form, and have your signature notarized. In addition to confirming your identity, the notary must require you to verbally swear to the truth of the information supplied in and with your application.
8. Pay special attention to the civil penalty for misrepresentations made concerning a person's status as an independent contractor.
9. Make checks payable to the "Montana Department of Labor & Industry" in the amount of \$125. Mail the completed affidavit and waiver form, attached photocopies of the 15 points of documentation, and (nonrefundable) \$125 fee to:

Independent Contractor Central Unit
P.O. Box 8011
Helena, MT 59604-8011

If you have any questions about completing the application or determining if you are an independent contractor, please call the Independent Contractor Central Unit in Helena at (406) 444-9029.

You may visit our website at www.mtcontractor.com