
Workers' Compensation Coverage Exemptions

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LMAC Meeting, July 21-22, 2010

1

General Categories of Exempted Employees or Employers:

- Persons covered under other acts (railroad, long shore and harbor workers, federal employees compensation act, etc.)
- Small employers
- Family owned and operated businesses
- Farming operations
- Partners or corporate officers of certain business entities, business owners and sole proprietors
- Domestic servants and other "casual employments"
- Independent contractors
- Other specific workers such as jockeys, musicians, paper carriers, professional athletes, volunteers, etc.

2

Montana's Exemptions:

- Household or domestic employment
- Any juvenile performing work in a delinquency prevention or rehabilitation program...
- A person receiving on-the-job vocational rehabilitation training under a state or federal program...
- An aircrew member or other person employed as a volunteer under 67-2-105
- A person performing community service for a nonprofit organization or association...
- An inmate...
- A volunteer firefighter...
- A member of a religious corporation, organization or trust...
- A person participating in recreational activity and who at the time is relieved of and is not performing prescribed duties...
- Volunteers
- Foster parents
- Partners of limited liability partnerships, sole proprietors, or a member-managed limited liability company...unless elected to be covered...
- Trustees of a rural fire district, a county governing body, or the county commissioners or trustees for a fire service area...

3

Public Policy For Montana's Exemptions of Concern:

- Cost of compensation for member managers, partners and corporate officers vs. use to evade coverage
- Domestic servants are considered "casual employment" in most states – (casual employment is defined as employment not in the usual course of the trade, business, profession, or occupation of the employer)

4

Comparison States' Results:

State	Exclusion for Partners	Exclusion for Domestic Servants	Threshold for Coverage of Domestic Servants
Alaska	No	Yes	Excludes only part-time baby sitters and cleaning help
Idaho	No	Yes	Appears none
Montana	Yes	Yes	Appears none
New Mexico	Yes	Yes	Appears none
North Dakota	Only excludes Board members or directors of business corporations	Yes	Appears none
Oregon	No	Yes	Appears none
South Dakota	No	Yes	If the worker works at least 20 hrs a week and 6 weeks in a 13 week period
Washington	No	Yes	If the employer has more than 2 employees
Wyoming	Yes*	Yes*	None

5

Conclusions and Options for Montana for LLP's

- The process of becoming a member managed LLC at the Montana Secretary of State is fairly easy and not very costly
- Proving these are being used in the construction trades to evade the payment of premium (as well as other costs) is extremely difficult to date
- Solutions implemented by other states are to specify the % ownership necessary and the limit the numbers of member managers, partners, etc. who can be excluded in the construction industry (MT already requires 20% ownership interest).

6

Recommendations:

- If member managed limited liability organizations are being used to evade the payment of premiums and create unfair competition in the construction trades, limit the number of members of member managed LLP's that can be excluded in construction to two or three
- Leave domestic exclusion as is, it is the most common public policy exclusion in most states and is the easiest and most cost effective to administer