



ATTENTION

IMPORTANT NOTICE – REQUIREMENTS FOR CORPORATE OFFICERS OF A CORPORATION AND MANAGERS OF A MANAGER-MANAGED LIMITED LIABILITY COMPANY

Corporate officers and managers of a manager-managed limited liability company (**excluding managers of a manager-managed LLC's working in the construction industry**) may apply for an **Independent Contractor Exemption Certificate**. Montana Code Annotated 39-71-417(1) (a)(ii) states an officer or manager who is exempt under 39-71-401(2)(r)(iii) or (2)(r)(iv) **may apply, but is not required to apply**, to the department for an **independent contractor exemption certificate**.

Montana Code Annotated 39-51-204(2) (b), states “an officer or manager who is exempt under 39-71-401(2)(r)(iii) or (2)(r)(iv) and who obtains an independent contractor exemption pursuant to 39-71-417(1)(a)(ii) is not considered an independent contractor for Unemployment Insurance purposes.”

Montana Code Annotated 39-71-401(2)(r) exempts from workers' compensation coverage, officers of a corporation and managers of a manager-managed limited liability company who meet specified criteria. To be exempt, one of the following criteria must be met:

- (i) the officer or manager is not engaged in the ordinary duties of a worker for the corporation or the limited liability company and does not receive any pay from the corporation or the limited liability company for performance of the duties;
- (ii) the officer or manager is engaged primarily in household employment for the corporation or the limited liability company;
- (iii) the officer or manager either:
 - (A) owns 20% or more of the number of shares of stock in the corporation or owns 20% or more of the limited liability company;
 - (B) owns less than 20% of the number of shares of stock in the corporation or limited liability company if the officer's or manager's shares when aggregated with the shares owned by a person or persons listed in subsection (2) (r) (iv) total 20% or more of the number of shares in the corporation or limited liability company; or
- (iv) the officer or manager is 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 the requirements of subsection (2) (r) (iii) (A) or (2) (r) (iii) (B).

If a corporate officer or a manager does not meet any of the criteria above they **are required to be covered** under Montana workers' compensation.

This document may assist you in providing proof of exemption. You could be asked to present additional documentation establishing your status within the corporation/LLC, and how, as the corporate officer/manager, you meet one of the criteria listed above. If you have any questions or concerns, please contact 406-444-0564.