

INSTRUCTIONS:

Visit us online at mtcontractor.mt.gov or call (406) 444-7734 for assistance.

- ☐ Complete this application form if you have an independently established trade, occupation, profession, or business, are **free from the control and direction of your hiring agent**, and are not personally covered by a Montana workers' compensation insurance policy.
- ☐ Read and complete the associated waiver form if you understand and agree to its provisions.
- ☐ Attach photocopies of suggested business documentation from the associated list totaling 15 points for each occupation listed below.
- ☐ Enclose a check payable to the Montana Department of Labor & Industry (DLI) in the amount of \$125 (non-refundable) or pay online.
- ☐ *Montana law requires businesses engaged in the construction industry with employees, including Manager-Managed LLCs and Corporations, to apply for a Construction Contractor Registration (CR). Some exceptions exist. Please call or visit our website to inquire.
- ☐ Send all completed application materials to: **Registration Section • PO Box 8011 • Helena, MT 59604-8011**

****Incomplete and/or inaccurate applications may be denied****

THIS BLOCK FOR OFFICE USE

I declare that I am 18 years or older. I am making these statements and representations in order to apply for an independent contractor exemption certificate (ICEC) 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 ICEC. If my ICEC is denied, I may contest the decision. **I declare under penalty of perjury and under the laws of the state of Montana that the following is true and correct:**

ALL FIELDS MUST BE COMPLETE	First Name:		MI:	Last Name:		SSN:	
	Business Name(s): (If not using a business name, write your personal name)						
	Mailing Address:				City:	State:	Zip:
	Business' Physical Address:				City:	State:	Zip:
	Phone:				Email:		
	The TRADE(S), OCCUPATION(S), or PROFESSION(S), for which I am applying is/are:						
Business Structure: (Selections must match your business name registration and record of ownership title with the MT Secretary of State; contact their office at (406) 444-3665 for verification)							
<input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Manager-Managed LLC (construction) (*May need CR) <input type="checkbox"/> Corporation (construction) (*May need CR) <input type="checkbox"/> Partnership or LLP <input type="checkbox"/> Manager-Managed LLC (non-construction) <input type="checkbox"/> Corporation (non-construction) <input type="checkbox"/> Member-Managed LLC Title: <input type="checkbox"/> President <input type="checkbox"/> Vice President <input type="checkbox"/> Secretary <input type="checkbox"/> Treasurer							

This section to be initialed only by MANAGER-MANAGED LLC (non-construction industry) and CORPORATION businesses:

- | | |
|---------------|---|
| _____ initial | I own 10% or more of the number of shares of stock in the corporation or own 10% or more of the LLC; or |
| _____ initial | I own less than 10% of the number of shares of stock in the corporation or LLC, but when my ownership is aggregated with the shares owned by a person or persons listed in the third category, the total is 10% or more of the number of shares in the corporation or LLC; or |
| _____ initial | 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. |

I solemnly affirm, under penalty of perjury, that all information provided and agreed to herein and attached hereto, is true, correct, and accurate to the best of my knowledge. By signing this application declaration and the associated waiver form, I understand and agree that if my ICEC is granted I **WAIVE ALL STATUTORY RIGHTS AND BENEFITS THAT I AM ENTITLED TO UNDER THE MONTANA WORKERS' COMPENSATION ACT.**

Applicant Signature: _____
 (APPLICANT SIGNATURE MUST BE NOTARIZED)

THIS FORM MUST
BE NOTARIZED

State of _____

County of _____

SUBSCRIBED and AFFIRMED before me this _____ day of _____, 20 _____

By (Applicant Name): _____

Notary Signature _____

Affix Seal/Stamp:

Notice of violation to Applicants: Montana law provides for a civil penalty up to \$5,000 for each violation of the following: A person may not perform work as an independent contractor without obtaining either workers' compensation insurance or an ICEC; perform work as an independent contractor when the Department has revoked or denied the ICEC; transfer to another person or allow another person to use an ICEC that was not issued to that person; alter or falsify an ICEC; 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, your ICEC may be suspended or revoked.

Notice of violation 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 \$5,000 for each violation.

Notice of violation 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 \$5,000 for each violation.

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- ☐ Initial all statements on this waiver form if you understand and agree to statutorily waive all rights and benefits to which you are entitled under the Montana Workers' Compensation Act Title 39, Chapter 71, MCA.
- ☐ This waiver form must accompany your completed ICEC application form, photocopies of 15 points of business documentation, and the \$125 application fee (non-refundable) or receipt of online payment.
- ☐ You may be responsible for reporting to Unemployment Insurance; contact their office at (406) 444-3783 for verification.
- ☐ Please read and understand all instructions AND the notices of violation listed at the bottom of the ICEC application form.

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First Name:

MI:

Last Name:

SSN:

I am executing this waiver as part of my application for an independent contractor exemption certificate (ICEC) with the Montana Department of Labor and Industry (Department).

I have **initialed** all the following statements, each of which I understand and agree to:

- initial I understand this waiver is not necessary for workers' compensation purposes if I voluntarily choose to obtain workers' compensation insurance on myself under Montana's Workers' Compensation Act Title 39, Chapter 71, MCA (Act) and I would then be entitled to all benefits under the Act. However, by applying for an ICEC, I agree to waive all my rights to obtain the coverage benefits for which I may be eligible under the Act, solely for any work performed under the ICEC. I understand and agree that if I am injured or develop an occupational disease while working for a hiring agent, I am precluded from obtaining any benefits under the Act for any and all damages arising out of any injury or occupational disease related to my work performance under an ICEC. I understand and agree that if I die from an injury or occupational disease related to my work performance under an ICEC, this waiver is effective against any of my beneficiaries as designated under the Act.
- initial I understand and agree that if my ICEC is granted, I will be conclusively presumed in court to have waived all benefits under the Act for work performed under the certificate.
- initial I am engaged in an independently established trade(s), occupation(s), profession(s), or business(es) and I have provided accurate and truthful documentation to the Department to verify the existence of this occupation(s) in my application declaration.
- initial When acting as an independent contractor, I agree to maintain my status as an independent contractor by being free from control or direction over the performance of my services and the details of my work, both under contract and in fact. I agree hiring agents will only be permitted to offer direction and exercise control in matters essential to specifying the end result. I understand that while performing work under my ICEC that I am waiving benefits under the Act unless I have a written or oral agreement to work as an employee for that hiring agent.
- initial I understand and agree that I am responsible for all taxes related to my work as an independent contractor.
- initial I understand the Department has the authority to investigate my working relationships as an independent contractor and may suspend or revoke my ICEC if appropriate.
- initial I understand that if granted, my ICEC 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 ICEC cancelled, or the Department revokes or suspends the ICEC. I understand that if I want to maintain my ICEC, I will have to re-apply every two years.
- initial I am of sound mind, I am 18 years of age or older, I have read and understand this waiver, and I am voluntarily and knowingly executing this waiver free from duress, coercion, or misrepresentation from any person(s).

This section to be initialed only by MANAGER-MANAGED LLC (non-construction industry) and CORPORATION businesses:

- initial I understand and agree that as a qualifying corporate officer, or as a qualifying manager of a manager managed limited liability company (LLC) that is not engaged in the construction industry, who directly owns or, when aggregated with qualifying relatives, owns 10% or more of the shares of a corporation or LLC, I am exempt from the requirement to obtain workers' compensation coverage on myself under the Act, as provided by § 39-71-401(2)(r)(iii) or (iv), MCA. However, I am not exempt from Montana's Unemployment Insurance laws, and must report my wages to the Unemployment Insurance Division.

I solemnly affirm, under penalty of perjury, that all information provided and agreed to herein and attached hereto, is true, correct, and accurate to the best of my knowledge. By signing this waiver form, I understand and agree that if my ICEC is granted **I WAIVE ALL STATUTORY RIGHTS AND BENEFITS THAT I AM ENTITLED TO UNDER THE MONTANA WORKERS' COMPENSATION ACT.**

Applicant Signature: _____
(APPLICANT SIGNATURE MUST BE NOTARIZED)

**THIS FORM MUST
BE NOTARIZED**

State of _____

County of _____

SUBSCRIBED and AFFIRMED before me this _____ day of _____, 20 _____

By (Applicant Name): _____

Notary Signature _____

Affix Seal/Stamp:

INSTRUCTIONS:

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- The following is a list of suggested business documentation with possible point values considered by the Montana Department of Labor and Industry (Department) to demonstrate each applicant is truly established in a trade, occupation, profession, or business and qualifies for an independent contractor exemption certificate (ICEC).
- You must score 15 points of business documentation for each trade, occupation, profession, or business listed on your ICEC application.
- Each item of documentation must be complete, valid, and current – it cannot be incomplete, outdated, or expired.
- Each item of documentation may count toward points in more than one trade, occupation, profession, or business.
- The Department has the discretion to assess the reliability of the business documentation in order to award points for the items submitted.

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MAX POINT VALUE

6 (or more) POINT CATEGORY

Workers' Compensation, Unemployment Insurance, and Revenue accounts for employees (all three)	10
Memo of Understanding or contract evidencing independent contractor status or Emergency Equipment Rental Agreement <ul style="list-style-type: none"> • payment based on a completed project basis • beginning and ending date of the contract • liability for failure to complete the project • identifies who provides the materials and supplies • a defined body of work, complete project, or end result • signatures by all parties 	6
General commercial liability insurance or insurance bond certificate (must contain agent contact information and current effective dates)	6
List of tools and equipment owned and controlled by the applicant with approximate value (must be signed and dated)	6
Business tax forms or records - IRS Schedules C, E, F, or K (must be within the past three years)	6
Form 1099s - two different hiring agents and compensation amounts differing from IRS Schedules C, E, F, or K (must be within the past three years)	6
Trucking company lease agreement	6
Certification for Indian Preference by a federally recognized Indian tribe under the laws of that tribe	6

MAX POINT VALUE

3 POINT CATEGORY

Partnership agreement (must be provided if marking partnership business structure) <ul style="list-style-type: none"> • intent to form the partnership • contribution by all partners • a proprietary interest and right of control by the working partner • the sharing of profit/loss • applicant's role as a working partner • signatures by all parties 	3
Professional license relevant to your trade, occupation, or profession	3
Educational certification relevant to your unlicensed trade, occupation, or profession	3
City or county business license or permit	3
Registration of business name and structure with Montana Secretary of State	3
Articles of incorporation, organization, or annual report (which reflects officers/managers/members for LLCs and Corporations only)	3
Business location documentation (lease or rental agreement, business property tax statement, or IRS 8829)	3
Bank account for your business (cannot be personal)	3
Professional membership or affiliation	3
Advertising (internet website, newspaper, phone book, or magazine)	3

MAX POINT VALUE

1.5 POINT CATEGORY

Construction Contractor Registration	1.5
Pre-printed forms, business card, or brochure	1.5
Invoices billed to your business name	1.5
Advertising for your business using sign on vehicle, yard, bulletin board, flyer, or social media	1.5
Orders receipt for printed hats, shirts or other apparel, pens or pencils for your business	1.5
Documented proof of federal employer identification number (FEIN, TEIN or TIN)	1.5
Credit card or purchasing account for your business (cannot be personal)	1.5
Telephone or utility bill for business (cannot be personal)	1.5
Vehicle registration for your business (cannot be personal)	1.5
International fuel tax account number (IFTA)	1.5
USDOT number	1.5
Dunn and Bradstreet number	1.5