

## **SUMMARY OF MONTANA INDEPENDENT CONTRACTOR PROVISIONS**

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Under Montana law, a person who regularly and customarily performs services at a location other than the person's own fixed business location must either: 1) obtain an independent contractor exemption certificate from the Department of Labor & Industry, or 2) purchase workers' compensation insurance for themselves.

To obtain an exemption certificate, an applicant must swear to and acknowledge that the applicant:

- Is free from control or direction over the performance of the services and the details of the work, both under contract and in fact; and
- Has an independently established trade, occupation, profession or business.

Proof of an independently established trade, occupation, profession or business is established through a point system. An applicant must receive at least 15 points from a list of 25 weighted criteria by submitting documentation that the criteria are met. For example, evidence of bonding is worth 6 points and evidence of a business bank account is worth 1.5 points.

The exemption certificate is conclusive proof that the person is an independent contractor if the person is working under the certificate.

A person working under an approved exemption certificate waives all rights to workers' compensation benefits.

The certificates are issued and the provisions otherwise administered by a separate unit within the Montana Department of Labor & Industries. The certificates are applicable for purposes of unemployment insurance, workers' compensation, wage and hour laws, human rights laws, and taxes. The fee is \$125.

A list of registered independent contractors is available on the website.

*The independent contractor exemption forms are attached.*

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