

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 406-444-6532.