

Contractor responsibility

Contractors are obligated to verify that the workers with whom they enter into business agreements as independent contractors (subcontractors) have a current ICEC. For purposes of the state's workers' compensation, unemployment insurance, wage and hour and occupational safety and health laws, workers without current exemption certificates will be employees of the contractors for whom they are working, unless another exemption applies to them.

DLI maintains a list of certificate holders on its Web site. Once issued, the ICEC will be available at the license and certification lookup at www.dli.mn.gov/cclld/icec.asp. Contractors can access the site to verify a worker's status and will be required to maintain a copy of the certificates for five years.

Penalties

Individuals and contractors who fail to comply with the law are subject to investigation and a penalty of up to \$5,000 for each violation and will be reported to other state agencies for possible further action.

Contact information

For exemption certificate application materials, to verify an employee's status as an independent contractor, and view a list of frequently asked questions visit

www.dli.mn.gov/cclld/icec.asp

To contact DLI for more information about the exemption certificate:

- e-mail: dli.ic@state.mn.us
- phone: (651) 284-5074

Additional resources for independent contractors:

Minnesota Department of Labor and Industry
Workers' Compensation Division
Web site: www.dli.mn.gov/wc/indpcont.asp
Phone: 1-800-342-5354

Minnesota Department of Employment
and Economic Development
Unemployment Insurance Division
Web site:
www.uimn.org/tax/hdbook/ind_contractor.htm

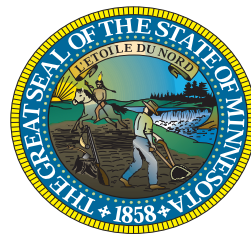
Minnesota Department of Revenue; for details of
the 2-percent withholding requirement.
Web site: www.taxes.state.mn.us
Phone: (651) 282-9999

US Internal Revenue Service
Web site: www.irs.gov
Phone: 1-800-829-1040

This document can be provided in different forms, such as large print, Braille or audio, by calling (651) 284-5005 or (651) 297-4198/TTY.

This brochure is also available in the following languages:

- Spanish (Español)
- Hmong (Hmoob)
- Russian (Russkiy yazyk)



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St. Paul, MN 55155
www.dli.mn.gov



INDEPENDENT CONTRACTOR EXEMPTION CERTIFICATE

Follow this guide to help
assess your eligibility for
the Independent Contractor
Exemption Certificate

A statewide requirement

State law requires individuals working as independent contractors in the residential and commercial construction industry to obtain an Independent Contractor Exemption Certificate (ICEC) from the Department of Labor and Industry. For purposes of state workers' compensation, unemployment insurance, wage and hour, occupational safety and health laws and state and federal tax withholding, individuals doing residential and commercial construction work without an ICEC will be employees of the contractor for whom they are working.

These businesses are characterized as contracting, performing work and receiving compensation from another contractor. **The ICEC is only required for independent contractor sole proprietorships who subcontract.**

Businesses that are registered as another business entity with the Minnesota Secretary of State do not qualify for the ICEC. This includes corporations, LLCs and partnerships. Also, the ICEC does not apply to construction sales, many types of landscaping (see Minn. Statutes 181.723, sub. 2) construction design, manufacturing, cleanup, deliveries or maintenance.

Apply for a certificate

Applications for the ICEC are available at www.dli.mn.gov/cld/icec.asp. **Application and renewal fees are nonrefundable. Note:** The 2010 legislature extended the renewal period for the ICEC from two years to four years. Anyone who obtained an ICEC before March 1, 2009, will not have to renew until March 1, 2013. All other ICECs are valid for four years from the date of issuance

Nine-factor test: Are you an independent contractor?

To be an independent contractor, in addition to having an ICEC, an individual must meet the conditions set out in all of the following factors. The individual:

- maintains a separate business with the individual's own office, equipment, materials and other facilities;
- holds or has applied for a federal employer identification number or has filed business or self employment income tax returns with the federal Internal Revenue Service if the person has performed services in the previous year for which the individual is seeking the ICEC;
- operates under contracts to perform specific services for specific amounts of money and under which the individual controls the means of performing the services;
- incurs the main expenses related to the service the individual performs under contract;
- is responsible for the satisfactory completion of services that the individual contracts to perform and is liable for failure to complete the service;
- receives compensation for service performed under a contract on a commission or per-job or competitive bid basis and not on any other basis;
- may realize a profit or suffer a loss under contract to perform service;
- has continuing or recurring business liabilities or obligations; and
- the success or failure of the individual's business depends on the relationship of the business receipts to expenditures.

To determine eligibility for an ICEC, individuals will be required to submit as part of their application, information and documentation showing they meet the above nine factors.

The Independent Contractor Exemption Certificate application is available at www.dli.mn.gov/cld/icec.asp

