



# FACT Sheet



## Who may work as an independent contractor in the construction industry?

### Exemption certificate

State law effective Jan. 1, 2009, 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. As of Jan. 1, 2009, for purposes of the state workers' compensation, unemployment insurance, wage and hour, and occupational safety and health laws, individuals doing residential and commercial construction work without an ICEC will be employees of the contractor for whom they are working.

The ICEC requirement does not apply to business entities such as corporations, LLCs or partnerships, nor does the ICEC apply to construction sales, most types of landscaping (see Minn. Statutes 181.723, sub. 2) and construction cleaning or cleanup.

To obtain an ICEC, individuals must complete and submit an application that establishes they meet the conditions required to operate as an independent contractor. To operate as independent contractors, individuals must be able to meet the conditions set out in the law's nine-factor test.

An ICEC permits individuals to work as independent contractors. Certificate holders, however, may work as either independent contractors or as employees. Whether a certificate holder is working as an employee or an independent contractor will depend on the conditions of the particular work relationship. To be an independent contractor, in addition to having an ICEC, the conditions of the work relationship must also meet the nine-factor test. View the nine-factor test at [www.doli.state.mn.us/ic](http://www.doli.state.mn.us/ic).

### Apply for a certificate

Applications for the ICEC are available on the DLI Web site at [www.doli.state.mn.us/ic\\_apply](http://www.doli.state.mn.us/ic_apply). The application and the renewal fee for the certificate is \$150. Independent contractors will be required to renew their exemption certificate every two years.

### Contractor responsibility

Contractors will be obligated to verify that the workers with whom they enter into agreements as independent contractors have a current ICEC.

The DLI will maintain a list of certificate holders on its Web site, and certificates for those individuals will be available to download and print. Contractors are required to maintain a copy of these certificates for five years.

Individuals and contractors who fail to comply with the law are subject to a penalty of up to \$5,000 for each violation and will be reported to workers' compensation, unemployment insurance and revenue regulation for further action.

**For more information  
about the ICEC, visit  
[www.doli.state.mn.us/ic](http://www.doli.state.mn.us/ic)**

*This fact sheet is a general outline, subject to statutory change. To read the text of the law, visit [www.doli.state.mn.us/ic](http://www.doli.state.mn.us/ic). Determination of independent contractor status for those doing commercial or residential building construction or improvements in the public or private sector is governed by Minnesota Statutes §181.723.*

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