

AFFIDAVIT OF EXEMPT STATUS UNDER THE WORKERS COMPENSATION ACT

State of Kansas)
 County of _____)

I, _____ state under oath as follows:

1. I, _____ (Independent Contractor) operating as _____ (Independent Contractor's business name), have agreed to provide services to _____ (Contractor) during calendar year ____.*
2. I have read, signed, and attached the Exempt Status Fact Sheet and understand that an Independent Contractor is one who engages to perform certain services for another, according to his/her own manner, method, free from control and direction of his/her contractor in all matters connected with the performance of the service, except as to the result or product of the work.
3. I understand that based upon the representations in this Affidavit of Exempt Status, I am requesting that _____ (Contractor) consider my business to be that of an independent contractor; that I am not an employee under the Workers Compensation Act and the policy issued by _____ (Insurance Carrier).
4. I am an independent contractor, not an employee of the contractor. I do not want workers compensation insurance and understand that I am not eligible for workers compensation benefits.
5. I agree to obtain workers compensation and employers' liability insurance for my employees, if any, or otherwise be responsible for payment of earned premium for employees determined to be mine, unless they are otherwise determined to be exempt from the requirements of the Workers Compensation Act.
6. I have read, signed, and attached the Exempt Status Fact Sheet describing an independent contractor and the information provided is not the result of force, threats, coercion, compulsion, or duress.
7. I understand that the execution of this affidavit shall establish a rebuttable presumption that {the executor} is not an employee for purposes of the Workers Compensation Act.
8. I understand that the execution of this affidavit shall not affect the rights or coverage of any employee of the individual executing the affidavit.
9. I understand that knowingly providing false information on an Affidavit of Exempt Status Under the Workers Compensation Act shall constitute a misdemeanor punishable by a fine not to exceed One Thousand Dollars (\$1,000.00) per violation. See K.S.A. §44-5,127(d)(1) (Supp. 2020).

Independent Contractor Signature (to be notarized) Date _____
 Name _____ Title _____
 Signature _____ Business Name _____

Notary Public

Signed and sworn to before me on this ____ day of _____, 20____ by _____
 _____ My Commission Expires: _____ Commission # _____

Notary Public

Contractor Signature Acknowledging Receipt Date _____
 Name _____ Title _____
 Signature _____ Business Name _____

*This form is to be signed and notarized at the start of a job/project for this contractor and is good for the job/project or any similar job/project performed for the contractor for one year from the date of notary. Please ensure that the Exempt Status Fact Sheet is signed and attached to this Affidavit.

Note: It is a crime to falsify the information on this form.

EXEMPT STATUS FACT SHEET

An independent contractor is defined by law as one who engages to perform certain services for another, according to his/her own manner, method, free from control and direction of his/her contractor in all matters connected with the performance of the service, except as to the result or product of the work.

Below are statements to help you decide if you are an independent contractor. No one statement is controlling, and your status is based on all the facts in your situation.

1. The nature of the contract between you and the contractor shows you are independent from the contractor. For example: Is there a written contract where you agree that you are an independent contractor? Do you maintain commercial general liability insurance or other business insurance?
2. The contractor exercises very little control over the details of your work or independence. Do you exercise control over most of the details of the work? Do you create plans or specifications for the job? Do you set your own work hours?
3. You are engaged in a distinct occupation or business for others. Do you work for companies or individuals other than the contractor? Do you work for competitors of the contractor? Does your business have a logo or uniform?
4. Your job is the kind of occupation where the work is usually performed by a specialist without supervision, and not under the direction of the contractor.
5. Your occupation requires special skills, license, education, or training.
6. The contractor does not supply the things needed to perform your job such as the tools and the place of work. Do you operate a vehicle owned by the contractor? Was the work performed at your business or the contractor's business location or jobsite?
7. The length of the job and how long you have worked for the contractor does not show that you are really an employee. For example: Is this a one-time job, or will you be doing this for the contractor regularly?
8. You are paid as a separate contractor, not as an employee. Do you invoice the Contractor for your services? Do you file a federal income tax return for your business? Do you expect to receive an IRS Form 1099 from the Contractor?
9. Your work is not the regular business of the Contractor.
10. You do not have the right to terminate the relationship without liability. For example: If you quit before the job is finished, is there a penalty?

Based upon these factors, do you believe that you are an independent contractor with exempt status?

_____ Signature _____
 (WRITE YES OR NO) (INDEPENDENT CONTRACTOR/EXECUTOR)

Note: Employers who knowingly and willfully require an employee or subcontractor to execute an affidavit when the employer knows that the employee or subcontractor is required to be covered under a workers compensation insurance policy shall be liable for a civil penalty of up to \$1,000.00 per offense. See K.S.A. §44-5,127(d)(1) (Supp. 2020).