



Independent Contractors

Industrial Insurance: RCWs 51.08.180, 51.08.181 and 51.08.195

RCW 51.08.180 states that an independent contractor who provides essentially personal labor is covered by industrial insurance. If the individual provides the labor of others (has their own employees) they are exempt. If the individual provides equipment (beyond ordinary hand tools), and they are not controlled in the use of the equipment, they are exempt. In these instances the individual is providing more than their personal labor.

If the individual does not provide their own employees or equipment in performing the contract, they may still be exempt if they meet the six-part test in **RCW 51.08.195**. The independent contractor must meet ALL six parts of the test in order to be exempt.

For the construction trades, there are seven parts to the test (**RCW 51.08.181**). Independent contractors in the construction trades must meet ALL seven parts of the test in order to be exempt.

1. Be free from your direction and control.
2. Need to pass one of the following three subtests:
 - a. Perform a service which is outside the course of your business or,
 - b. Perform the service away from all your business locations, including all your job sites or,
 - c. Be responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed.

3. Need to pass one of the following two subtests:
 - a. Be customarily engaged in their own business to provide the services which are of the same nature as those performed under the contract or,
 - b. Provide a principal place of business that qualifies for an IRS business deduction; the place must be used regularly and exclusively for business purposes.
4. Be required under IRS rules to file a business tax return with the IRS.
5. Have an active account and an active unified business identifier number (UBI) with the Department of Revenue.
6. Maintain their own set of books and records showing business income and expenses.

Additional requirement for the construction trades:

7. The individual must have a valid contractor registration pursuant to chapter **18.27 RCW** or an electrical contractor license pursuant to chapter **19.28 RCW**.

If you have any questions, check with your local L&I field office to verify if your subcontractor would be considered your covered worker for industrial insurance purposes, or online at: <https://fortress.wa.gov/lni/crpsi>.

This card is intended as a Quick Reference Guide for industrial insurance (workers' compensation) purposes. We make every effort to ensure that it is correct. When using this card, please understand it is not intended to replace Department of Labor & Industries' or insured's policies, procedures, RCWs or WACs in their entirety.