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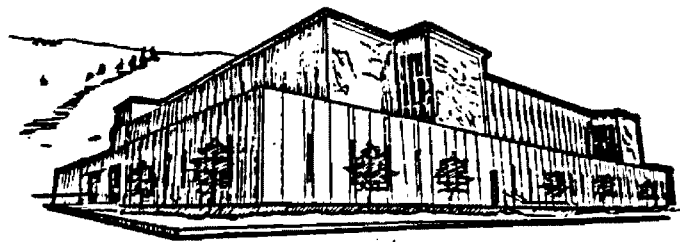
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University of  
**Montana**



**HOW TO START A BUSINESS -  
COPING WITH BUSINESS REGULATIONS**

**By**

**Timothy Richard Engelhardt**

**B.S., Montana State University 1968**

**Presented in partial fulfillment of the requirements**

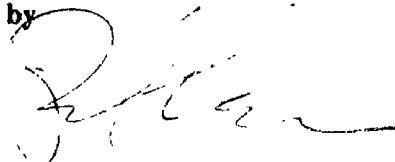
**for the degree of**

**Master of Business Administration**

**University of Montana**

**1992**

**Approved by**



**Chairer, Examining Committee**



**Dean, Graduate School**

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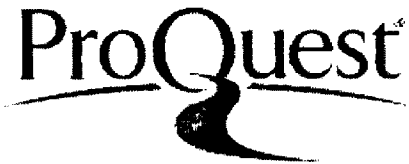


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## **INTRODUCTION**

This book is a "how-to" guide for helping cope with Montana and federal regulations when starting a business in the state of Montana. This guide provides a step-by-step process and explanations of alternative decisions in each of the steps. Each decision alternative will be discussed in detail and important considerations for each alternative for present and future ramifications will be presented. The guide will address structural, legal, financial, and personnel considerations in starting a business.

This guide will not address the products or services offered by the business, how to market them, or how to operate the business. Several excellent books, such as the "Montana Entrepreneur's Guide," provide information on developing ideas, planning for the business, developing a business plan, and financing the business.

Each Chapter contains a checklist of decisions and activities, a narrative explaining the checklist activities, a list of sample forms (which are contained in appendix A), a list of sample documents (contained in Appendix B), and a list of sources of information.

## **WHO SHOULD READ THIS BOOK**

This guide is for the typical small, for profit business starting in Montana. These businesses begin with as few as one "part-time" owner with no employees, to several owners employing dozens of workers. Not typical are start-ups with complex

capitalization structures seeking millions of dollars of debt and equity combinations. This guide provides guidelines for the necessary steps and the options and considerations for making decisions that will be faced by a company starting with less than \$500,000 in private placement capitalization and with fewer than 50 employees. Considerations for public stock offerings, complex limited partnership agreements, foreign corporations, and international trade are not addressed because such start-ups need to have professional consultants involved in all aspects of the process.

The decisions that need to be made when starting a business are detailed and significant considerations affecting the decisions are discussed, offering pros and cons for each decision alternative.

This guide does not address those decision processes involved in the evaluation of business ideas, product and/or service offerings, target markets, or marketing strategies. The business planning process is discussed only in the context that the decisions that need to be made about structure, ownership, employees, sources of funding, bonding and insurance, and taxes will affect the business plan and must be made prior to completing the plan.

## **EXAMPLE COMPANY**

We will use an example company to demonstrate a real life situation. The company we will use is a fictitious one and the names of those involved are not meant to be real people.

Montana Stitchery, Incorporated is a company that will manufacture nylon and leather bags for sale. There are three people who will start the business and they will hire at least three others to help with manufacturing and book-keeping. They will need to purchase some raw material inventory, three sewing machines, and some other miscellaneous equipment. They will also be faced with leasing space, contacting suppliers, and marketing their products. In the future, they plan to contract with other companies to sew their designs.

Founders of Montana Stitchery, Inc:		
Tim Leader	President	investing a computer (worth \$5,000) and \$5,000 in cash
Jeff Workman	Vice President	investing \$10,000 in cash
I.N. Vester	"silent partner"	investing \$25,000 in cash
Total Investment:		\$40,000
Additional capital needed through debt:		\$23,000
Use of initial funding:		
purchase 5 sewing machines		\$15,000
purchase other miscellaneous equipment		\$ 3,000
purchase raw material for inventory		\$15,000
6 months operating funds including wages		\$30,000
Total capital needed:		\$63,000

# **CHAPTER 1**

## **COMPANY NAME AND STRUCTURE**

### **INTRODUCTION**

The first task of a new business is to choose a name and a company structure. You must have a name before you can begin the paper-work process that is necessary to identify your company with the Federal government, the Montana State government, and your local government. Additionally, you must have a name in order to do business with your suppliers and your customers.

Your name is important because it gives your company an image and, later, projects your reputation. When a customer hears your name, an immediate image of what your company is comes to that customer's mind. The name must not mislead or confuse the customer. It must conjure up an idea of what and who you are and what it is that you do. Choose the name carefully - your company must live with it for a long time and change can be very expensive.

Your name also may depend, to a degree, on what company structure you choose. The three common forms of company structure available to small, for profit companies are a sole proprietorship, a partnership, and a corporation. If your company is a corporation, the State of Montana has specific rules regulating the name and the words used in the name.

The structure you choose also establishes how the ownership of the company will

be organized, the amount of liability of the owners with regard to the debt incurred by the company, how taxes are assessed and paid, who gets the profits, and what happens to the company in the event of the death of an owner. Liability for debts can come from losses from operating the business, taxes owed, or any other claims such as legal damages resulting from a lawsuit.

Once you have decided on a name and structure, you can begin the process of registering your business with the Federal and State governments. You must first register with the Montana Secretary of State and then with the Internal Revenue Service.

As you begin the process, it is vitally important that you establish a file for your company records. Each time you complete a step and send in the necessary paper work, you will normally receive some kind of conformation or response from the agency you are dealing with. You must keep copies of each of the forms and documents you send in and you must keep copies of the response you receive. Buy a file cabinet and dedicate a drawer to your company papers.

## **CHECKLIST**

- I. Choose a company structure
  - A. Sole Proprietorship
  - B. Partnership
  - C. Corporation
    1. Montana Close Corporation
    2. S corporation election
- II. Choose a company name
- III. Check with Montana Secretary of State to see if name is used
  - A. File a name reservation if needed
- IV. File the company papers

- A. Sole proprietorship
  - 1. File an ABN with Secretary of State
- B. Partnership
  - 1. File an ABN with Secretary of State
  - 2. File form SS4 with IRS
  - 3. Develop a partnership agreement
    - a. Limited partnership files partnership agreement with Secretary of State
- C. Corporation
  - 1. File and ABN with Secretary of State (optional)
    - a. Existing "foreign" corporations file Form FC4 with Secretary of State
  - 2. Choose a regular or Montana Close Corporation
    - a. Regular corporation
      - 1) Develop Articles of Incorporation
    - b. Montana Close Corporation
      - 1) Develop Bylaws
      - 2) Determine stock transfer process
      - 3) Develop Articles of Incorporation
  - 3. Register with the Secretary of State
    - a. Articles of Incorporation
    - b. Filing fee
  - 4. File form SS4 with IRS
  - 5. Develop By-Laws
  - 6. Hold organizational meeting
    - a. Determine initial capitalization & investment and allocate stock to initial stockholders
    - b. Adopt by-laws
    - c. Elect board of directors
    - d. Appoint officers
    - e. Decide S corporation election
      - 1) file form 2553 with IRS
  - 7. Issue stock certificates
    - a. Obtain corporate seal (optional)
    - b. Complete and distribute certificates
    - c. Start and maintain shareholders records
- IV. Establish and maintain company records

## **CHOOSING A COMPANY STRUCTURE**

There is no one type of structure that is the best. Individual circumstances must

be considered while evaluating the pro's and con's of each type of structure. The individuals involved, the tax consequences for both the business and the owners, the sharing of profits, the potential liability, and the continuation of the business in the event of death of a owner are major factors in determining the best structure.

### **Sole Proprietorship**

A sole proprietor is an individual who owns 100% of the company. If others will have an ownership share, then the structure must be either a partnership or a corporation. An individual can own 100% of the stock of a corporation.

The owner will receive all the profits and will pay all the taxes. Taxes are paid on the owners' individual tax return using Schedule C. Sole proprietors are exempt from unemployment taxes and from workers compensation insurance. The owner will be totally responsible for all business debts.

Sole proprietorships are the easiest and least expensive to start, operate, and terminate. There is no paper work required to start; however, it is strongly urged that the name be registered with the State of Montana.

Capital investment for the sole proprietorship is provided only by the owner. If additional funds are needed, they must be obtained through debt. A bank loan or a loan from family or friends are the most common sources of debt. Many times, debt financing is difficult. The owner's financial resources usually provide the collateral that a lending institution will demand.



The sole proprietorship ends when the owner wishes it to or when the owner dies.

## **Partnership**

A partnership is owned by two or more persons. The most common form is the "general partnership" where the partners share in the management of the business, the profits (or losses) of the business, and are totally responsible for the debts of the company.

Each partner is an "agent" for the partnership and therefor can enter into agreements and contracts on behalf of the partnership, hire and fire employees, borrow money, and do whatever is necessary to operate the business. Potential liability problems can arise when partners can't agree on actions or if they take individual actions not agreeable to the other partner. Each partner is responsible for the actions of the other partner, whether agreed to or not. If one partner accumulated debts and cannot pay, the debtor can seek payment from the other partners.

Partnerships can be started and ended without legal forms. However, it is strongly recommended that a partnership agreement be written and signed by all partners before entering into any business. This agreement will address the share of ownership, how profits (and losses) are to be shared, and how the partnership may end. Table 1-5 lists some of the elements of a partnership agreement. A partnership ends when one of the partners wishes it to, when one of the partners dies, when a partner is removed, or with the bankruptcy of a partner. Most partnership agreements specifically address how

the partnership will end in any of these circumstances. Although the partnership will end, the company can continue with a new partnership agreement modified to reflect the new ownership.

Because of the nature of partnerships, one of the most important considerations in forming one is to be sure that the partners are compatible. A frequent reason for the breakup of a partnership is disagreements between partners. The best advice is to know your partners very well before you agree to go into business together.

Profits are allocated to the partners based on the partnership agreement. A partnership tax return must be filed, but taxes are paid by the partners on their individual tax returns.

Partnerships are more expensive to set up than sole proprietorships. It is a good idea to have an attorney experienced in structuring partnerships help develop the partnership agreement.

Capital investment is provided by the partners. Additional capital can be obtained by additional investment from the current partners, by allowing another partner to buy in, or by debt financing. Debt financing from lending institutions is usually easier than for a sole proprietorship because the company has two or more partners to provide the needed collateral through personal loan guarantees.

There is a special kind of partnership called a "limited partnership" that may be applicable in some situations. The partnership is structured with a general partner, who manages the business and is personally responsible for the debts of the company, and limited partners, who invest but are not involved in the management or operation of the

company and are responsible for debts only to the limit of their investment. Limited partnerships are complex and require an attorney who is experienced in setting them up.

## **Corporations**

A corporation is a legal entity that exists in the eyes of the law as separate and distinct from its owners. The corporation enters into contracts, borrows money, hires and fires employees, and is solely responsible for its debts. Individuals and other companies can become owners (shareholders) of a corporation by purchasing shares of stock. The purchasing of stock is the method of investing money in the company. The owners of the corporation may or may not participate in the management and operation of the company and they are limited in their liability to the amount of their investment in the corporation. Corporations can have one or more stockholders.

Profits can be kept by the corporation or can be distributed to the owners through stock dividends. The corporation is responsible for paying the taxes on the profits. The owners are responsible for paying taxes on any dividends that they receive. In this manner, the profits of a corporation can be taxed twice - paid once by the corporation and the second time by the shareholders. It is important to remember, however, that the corporation does not have to pay dividends.

Corporations are run by a "board of directors" who are elected by the shareholders. In most small corporations, each share of stock represents one vote. Shareholders cast one vote for each share of stock that they own and a majority of votes

decides the winner. Directors are responsible for managing the business. The directors appoint corporate officers who are responsible for the day-to-day operation of the business under the direction of the directors. A director can also be an officer (which is usually the case in small corporations.) Duties of the directors can be specified in the Articles of Incorporation and the corporate bylaws. Montana law requires at least one director.

The board of directors of most small corporations quite often are made up of the founder, their spouse, and perhaps two to four acquaintances. In many cases, little thought is given to selecting board members who can significantly contribute to the company. Often the most useful members are those who have had experience with the types of problems the new company is about to face. When selecting board members, seek out individuals that can help you in specific areas where you anticipate problems.

Corporations are the most difficult and expensive business structure to establish. Articles of incorporation, bylaws, a board of directors, corporate officers, annual directors' meetings, annual stockholders' meetings, and ownership records all must be established. Table 1-1 lists the requirements for starting a corporation.

Capital investment is obtained by selling stock to shareholders. Additional investment can be obtained by selling additional stock - to either the present owners or to new owners. Debt financing will depend on the assets of the corporation to provide collateral. Many times, a new corporation will require a "co-signer" for loans. The

TABLE 1-1

## Requirements of a Corporation

1. Articles of Incorporation
2. Bylaws
3. A registered agent and location
4. A board of directors
5. Board of director appointed officers
6. Shareholder(s) - owners of stock
7. Stock certificates for each shareholder
8. An organizational meeting
9. Minutes of organizational and subsequent board of director meetings
10. An annual meeting of shareholders
11. Notifications of all meetings of shareholders and directors
12. Records of authorized and issued shares of stock
13. Name and address lists of shareholders
14. Records of all dividends issued
15. Annual report for Montana Secretary of State
16. Corporate accounting records
17. Corporate records of all above available for inspection at any time by shareholders

Source: MCA Title 35

assets of the co-signer provide the needed collateral. The co-signer can be any individual, partnership or corporation that is willing.

Corporations do not end with the death of an owner. That deceased owner's stock is passed on to his heirs or is sold to another owner. A corporation can be terminated only by filing Articles of Dissolution and by disposing of all assets, settling all debts, and distributing whatever is left to the shareholders.

Because small corporations depend heavily on a few stockholders, it is of the

utmost importance for the shareholders to have "shareholders agreements." These agreements provide a process for the corporation or its surviving owners to purchase the shares of stock of the shareholder who dies. The deceased owner's heirs may not be capable (or desirable by existing owners and management) of participating in the management of the company. An agreement that allows the surviving owners to purchase the shares or to sell them to another investor who may be more acceptable to the surviving owners can mean the survival of the company. In this manner, a corporation can insure its survival. Purchasing the stock of a deceased owner may, however, be financially prohibitive. Many shareholder agreements include life insurance techniques to provide funds for share purchases, Chapter 7 discusses these insurance techniques.

### **Montana Close Corporation**

A Montana Close Corporation can be established under a special Act passed by the Montana legislature, which is described in Montana Code Annotated Title 35 Chapter 9. The Act is designed specifically for small businesses. A close corporation must specify that it is a "close corporation" in its Articles of Incorporation and must have 25 or fewer shareholders. It has all the advantages and liability protection afforded a regular corporation, but can be set up to eliminate many of the costly operational requirements. Some of the features that can apply to a close corporation are listed in Table 1-2. The Articles of Incorporation of a close corporation essentially replace the bylaws and therefore will be more complex, time consuming, and expensive to write.

TABLE 1-2

**S Corporation Requirements**

1. It must be a US corporation and not have any alien shareholders
2. There cannot be more than 35 shareholders
3. All shareholders must be individuals - other corporations or partnerships cannot be shareholders
4. The corporation cannot own shares in another corporation
5. There can only be one class of common stock and there can be no preferred stock

A close corporation can change back to a regular corporation by amending its Articles of Incorporation and submitting the changes to the Secretary of State. Conversely, a regular corporation can become a close corporation by amending and filing its Articles of Incorporation.

The restrictions on share transfers replace the shareholder agreements that were discussed earlier. The agreement is now contained in the Articles of Incorporation.

**S Corporation**

Every corporation is a "C corporation" unless the owners apply with the IRS for an "S Corporation" status. An S corporation is no different than any other corporation but is taxed like a partnership. Profits (or losses) are allocated to the shareholders based on their percentage of ownership and the taxes are paid by the shareholders on their individual tax returns. The specific requirements that a company must meet to qualify

as an S corporation are shown in Table 1-3. A Montana Close Corporation can be either a C or an S corporation.

**TABLE 1-3**

**Montana Close Corporation Features**

1. Eliminate the Board of Directors
2. Treat the corporation as a partnership
3. Allow one or more shareholders to dissolve the corporation
4. Eliminate the Bylaws (Articles of Incorporation replace bylaws)
5. Eliminate the Annual Meeting
6. Allow one person to hold all corporate offices
7. Absolve shareholders from personal liability
8. Restrict share transfers (shareholder agreements to allow the corporation first opportunity to purchase stock of another owner from his/her heirs)

A new company must request an S corporation election within 75 days of beginning its taxable year (not necessarily when it files its Articles of Incorporation with the secretary of state.) The first taxable year can begin when it issues stock to shareholders, acquires assets, or begins to do business - whichever comes first. It can request an election in subsequent years by filing within the first 75 days of the beginning of the current taxable year. IRS form 2553 is used to request S corporation election and must be signed by all shareholders.

If any of the requirements cannot be met after receiving S status, the company reverts to a regular C corporation status (for example, a company may need additional



capital and it sells stock to another corporation. It then loses its S corporation status and reverts to a C corporation.) The shareholders also can revoke the S election at the beginning of a tax year. If S status is revoked or is lost, the corporation cannot re-apply for S status for a period of five years. Changing status should be done only under the consultation of a qualified tax consultant.

### **Business structures - a comparison**

When comparing the choices of business structure, it is helpful to compare the major differences. Table 1-4 gives a brief comparison. The primary considerations when choosing a structure are how the taxes will affect the owners, and the degree of liability the owners are willing to personally assume. Each company's situation can be different. It is important to discuss these considerations with both a tax accountant and an attorney who are familiar with business start-ups and with tax ramifications.

### **CHOOSING A COMPANY NAME**

Once a company structure is chosen, the company name can be finalized. The name is important to the company. It must live with it for a long time because changing can be expensive - not only must legal paperwork be re-filed, but advertizing, stationary, phone-book listings, signs, and business cards must be changed. Customers and

<b>TABLE 1-4</b>			
<b>Business Structure Comparison</b>			
<u>Characteristic</u>	<u>Sole Proprietorship</u>	<u>Partnership</u>	<u>Corporation</u>
Ease of Formation:	Simplest	Simple but needs partnership agreement	Formal documents - most difficult and costly
Ease of Operation:	Simple - owner runs	Partners agree on operating decisions	Shareholders elect a board of directors who, in turn, appoint officers who are responsible for running the business.
Liability Exposure for company debts	Owner 100% Responsible	Partners 100% responsible for debts and other partners' actions	Stockholders liable to the limit of investment. Some potential liability for corporate officers and directors.
Tax on Profits:	Owner taxed at individual rate. No Company tax return.	Partners taxed at individual rate. Partnership files a tax return.	Corporation files return - pays rate higher than individual's. Dividends paid to shareholders are taxed at individual rate.
Duration of Company:	Ends with death or wishes of owner	Ends with death, withdrawal, or bankruptcy of any partner	Perpetual - ends only when shareholders wish
Ease of Obtaining Capital:	Owner provides - can be difficult to obtain debt financing	Owners provide - easier to obtain than sole proprietorship	Owners provide, but can sell stock to additional owners. Debt can be easier to obtain.

suppliers must also be notified and some degree of confusion will occur.

A name must clearly identify the product or service that your company is going to offer. The name should be recognizable and should also not be confused with existing companies. Most importantly, it must be legal. Careful research and selection can prevent you from being sued by another company that accuses you of infringing on their name. A law suit can be expensive and you may be forced to change your name and

incur the cost and confusion of changing.

Once you have one or more names that you would like to use, call the Montana Secretary of State and check to see if there are any other companies that are using that name. Montana recognizes two types of names. The first is an "Assumed Business Name", referred to as an ABN. The Secretary of State will not allow you to file a name that is "deceptively similar" to another assumed business name registered in Montana. Any company can file an ABN whether it is a sole proprietorship, a partnership, or a corporation. It is the only method for a proprietorship or a partnership to legally use a name.

A corporate name is the second method of registering a business name. Montana requires that a corporation name contain one of the following words or abbreviations: "corporation, incorporated, company, limited, corp., inc., co., or ltd." A business incorporates by sending Articles of Incorporation and the appropriate fee to the Secretary of State. The corporation name is then compared to other corporate names. A name will be accepted if it is "distinguishable in the record" from another name. Care must be taken here. The name "McDonald's Hamburger Company" would be registered, but McDonald's, Inc. would most likely instigate legal processes to prevent you from using a name that is so similar to this established company's name. Just because the name is "legal" in Montana doesn't mean that you won't be subject to a law suit, that you could lose the suit, that you could pay damages, and that you will have to change your name. Unfortunately, the Montana and Federal court systems will have the final decision.

If the name you choose is rejected by the Secretary of State, you can either

change your name or try to get a release from the other company for you to use the name. If that company rejects your request, you can contest the registration by sending a notice to the Secretary of State along with a \$100 fee. The State will ask for facts and arguments from each business and then make a decision. If the decision is not favorable to one of the parties, they can file a protest with the District Court. It is important to recognize that another company can try the same process with your business if they wish to file a name that is similar to yours. Registration with the State gives you legal grounds to defend the right to your name. The best method of making sure you are protected is to file both an ABN and the corporate name if you are incorporating in Montana.

Once your name is chosen, you can call the Secretary of State to see if the name is acceptable. You can reserve a name by filling out Form C-5 and sending it to the Secretary of State along with a \$10 fee. Your name will be reserved for 120 days. You can reserve the name two more times, effectively reserving the name for one year. A new form C-5 and the \$10 fee must be submitted each 120 days. You would need to reserve the name to allow time to complete the rest of your paperwork and you are ready to officially file your assumed business name or your incorporation papers (or both.)

## **FILE THE COMPANY PAPERS**

### **Sole Proprietorship**

No papers need to be filed to start a sole proprietorship. However, to protect your name from use by other companies and to prevent possible problems with another business who may have the same or a similar name, an Assumed Business Name must be filed with the Secretary of State. Form ABN-23 can be obtained from the Secretary of State, filled out and submitted along with a check for \$15.00 and mailed back to the Secretary of State. Within two weeks, you will receive confirmation of the registration of your name.

The Secretary of State will notify the Montana Department of Revenue and you will receive tax information from them.

If you will hire employees, the Federal government must also be notified. An Internal Revenue Service (IRS) form SS4 must be filled out and sent to the IRS in Ogden, Utah. This form requests a "Federal Employer Identification Number" referred to as an FEIN or an EIN. It is your business's "social security number." You must have this number even if you don't have any employees. All correspondence with the IRS and the Montana Department of Revenue must contain this number. When you go to a bank to open a business checking account, the bank will ask for your EIN number.

### **Partnership**

The process for filing your name is the same as that for a sole proprietorship. Form ABN-23 and the \$15.00 fee is sent to the Secretary of State, and form SS4 completed and sent to the IRS.

Although a partnership requires no formal agreements, it is critical that a

partnership agreement be prepared. Important elements that should be part of an agreement are listed in Table 1-5. It is recommended that an attorney experienced in setting up partnerships be consulted to assist you in developing your agreement.

TABLE 1-5

Partnership Agreement Elements

1. Name and address of the partnership
2. Capital investment by each partner
3. How additional investment can and must be made - partners' capital account balances
4. How profits and losses are distributed to the partners
5. Regular withdrawal of profits
6. The participation of each partner in the management and operation of the business - duties, responsibilities, and time contribution
7. Procedures for admitting a new partner
8. Method of valuing a partners ownership share in the event of withdrawal or death
9. Method of liquidating that partners share
10. Procedures of removing a partner
11. The operation of the business, handling of money, investments, equipment, accounting, and the signing of checks

If you want to form your partnership as a limited partnership, you must send your Limited Partnership Agreement, along with \$20, to the Montana Secretary of State. Additional tax, organizational, and reporting considerations must be included in a limited partnership agreement. An attorney experienced in setting up limited partnerships should

be retained to develop your agreement.

## **Corporation**

Establishing a corporation is more complex than either the Sole proprietorship or the partnership start-up. The following steps must be taken:

1. File an ABN with the Secretary of State (optional)
2. File a name reservation with Secretary of State (optional)
3. Write Articles of Incorporation, sign, and notarize  
Decide if you will be a Montana Close Corporation
4. Send Articles and fee to Secretary of State
5. File form SS4 with the IRS
6. Write corporate bylaws
7. Hold an organizational meeting
8. File election for S corporation with IRS (optional)
9. Purchase a corporate seal (optional)
10. Issue stock certificates
11. Establish corporate books

An existing corporation that was founded in another State or in a foreign country can obtain a "certificate" to do business in Montana. Form FC4, "Application for Certificate of Authority of Foreign Corporation", can be filed with the Montana Secretary of State. The remainder of the above list is not applicable. The laws of the State or country of incorporation will apply.

1. File ABN - Although filing an ABN is not necessary, it is recommended to protect your business name and to give you an indication if any other business names are similar to yours.

2. File name reservation - If you will not be able to officially apply for your corporation certification in the near future, you can reserve your corporate name using form C-5.

3. Articles of Incorporation - The Articles of Incorporation is a document describing the corporation (see the sample at the end of this chapter.) Montana law dictates the contents of the Articles and a complete set of requirements can be found in MCA 35-1-216. The Articles should contain the following information:

**The name of the corporation**

The name must contain one of the words: "corporation, incorporated, company, limited, corp., inc., co., or ltd." It is important that your exact corporation name appear on all company letterhead and other documents where you might sign your name as a corporate officer.

**The number of shares authorized**

Shares that are authorized to be issued don't necessarily have to be issued. Each corporation must issue at least one share of stock so that there is, indeed, an owner. For example, a corporation may authorize 100,000 shares, but only issue 1,000 shares during its life - if that is all it needs to get its capital. The registration fee is based on the number of shares authorized. Fees range from \$50 for up to 50,000 shares, to \$1,000 for over 1,000,000 shares. If there is anticipated growth that will require sales of stock to obtain additional capital, it would be worth authorizing



a large number of shares. Should the corporation need more shares later, the Articles of Incorporation must be amended to reflect more authorized shares, which requires a majority vote of the shareholders. The cost in filing fees and legal fees may be significant. If the corporation is small and no significant growth is anticipated, you should still authorize a minimum of 50,000 shares since it will cost you no more that authorizing 1 share.

#### The par value of the shares

The par value of a share of stock is the minimum dollar amount for which new shares can be issued and sold. Many companies will now declare their stock to be "no par" stock and thus it can be issued and sold for whatever price can be obtained. If a par value is established, say \$1.00, and the corporation can't find anyone to pay more than \$.75 per share, the stock can't be sold and no money can be raised.

#### The corporation's address & mailing address (if different)

#### The initial registered agent

This is usually one of the incorporators. There must be words in your Articles stating "the initial registered agent is ..."

#### The name and address of each incorporator

#### The name and address of the initial directors

The initial directors can be changed at the organizational meeting. Often the initial agent, the incorporator and the initial director are all the same

person. A Montana corporation must have at least one director.

The purpose for which the corporation is organized

The purpose will state why you are in business and what you will be doing. Normally, additional language is placed in the Articles to allow the corporation to anything. Many companies evolve into areas of business that they did not originally foresee. If general language is in the Articles, they will not have to be amended and re-submitted when the new business areas are started.

The notarized signature of the incorporator.

If you are incorporating as a Montana Close Corporation, your Articles must contain some additional information. The Montana Close Corporation Act is described in MCA 35-9. The Articles must contain the statement that the corporation is "... a statutory close corporation." Your Articles should also address the following:

- Share Transfer restrictions
- Elimination of the board of directors
- Elimination of bylaws
- Elimination of the annual shareholder meeting
- Holding of more than one office by any one individual
- Execution of documents in more than one capacity

MCA 35-9 should be followed when writing the Articles of Incorporation and an attorney who is experienced not only in corporate start-ups, but in establishing close corporations should be consulted.

4. Send Articles and fee - Be sure to sign and notarize your Articles. Send the

Articles along with a check for the required fees. The fee schedule is listed below:

Filing of Articles of Incorporation	\$ 20.00
Fee based on authorized shares:	
0 to 50,000 shares	\$ 50.00
50,001 to 100,000 shares	\$ 100.00
100,001 to 250,000 shares	\$ 250.00
250,001 to 500,000 shares	\$ 400.00
500,001 to 1,000,000 shares	\$ 600.00
over 1,000,001 shares	\$1,000.00

If you need to change you Articles of Incorporation for any reason, an additional fee of \$15.00 will be assessed. Be sure that the Articles authorize at least 50,000 shares!

When the Secretary of State accepts your Articles, you will receive a "Certificate of Incorporation" signed by the Secretary of State and affixed with his seal. The Secretary of State will notify the Montana Department of Revenue and you will receive information form them also.

5. File form SS4 with the IRS - This form is an application for an federal employer identification number and it is the same form as was described in the sole proprietor and partnership filings.

6. Write corporate bylaws - If your company is not a Montana Close Corporation, bylaws must be written and accepted by the board of directors (see the sample bylaws at the end of this chapter.) Bylaws contain the rules under which the corporation manages the business and regulates the affairs of the corporation. Bylaws must be consistent with the Articles of Incorporation and should address the following major topics:

- A. Shareholders
  - 1. When and where annual or regular meetings will be held. Shareholders must meet at least annually.
  - 2. The election of a board of directors and how directors are removed.
  - 3. Definition of a quorum and the manner of voting.
  - 4. How meetings are called including notices of meetings, how special meetings are called, and how the annual meeting can be delayed or changed.
- B. Directors
  - 1. The number of directors, the length of their term, and how the number of directors may be changed.
  - 2. Definition of a quorum and the manner of voting.
  - 3. The election of officers.
  - 4. When and where meeting are to be held, how meetings are called, how special meeting are called, and how meeting notices are sent.
  - 5. The general and specific powers of the directors.
  - 6. Compensation of directors.
  - 7. The indemnification of the directors and officers (this can also be addressed in the Articles of Incorporation.)
- C. Officers
  - 1. Define the officers - a president, one or more vice presidents, a treasurer, and a secretary. Often one person can share two offices consisting a combination of vice president, treasurer, or secretary.
  - 2. Describe the duties of each officer.
- D. The resignation and filling of vacancies of directors or officers.
- E. Stock
  - 1. Issuing of stock certificates.
  - 2. Transferring of shares of stock in the event of the death of an owner or if an owner wants to relinquish ownership.
  - 3. Declaring of dividends.
  - 4. Assigning and voting of proxies.
- F. Miscellaneous provisions
  - 1. Authorization of a corporate seal (optional).
  - 2. Location of the corporate office.
  - 3. Signing of checks.
  - 4. Amending the bylaws.

Examples of bylaws can be obtained from books, but if the corporation is expected to grow to a significant size, the assistance of an attorney is advised.

- 7. Hold an organizational meeting - An organizational meeting must be held to begin

the corporation. Minutes of the meeting must be recorded and signed by the corporate secretary. The meeting should accomplish the following:

- A. Elect an initial board of directors
- B. Appoint the initial corporate officers
- C. Adopt the bylaws
- D. Awarding of the founding shares of stock
  - Founders' stock can be exchanged for money, equipment, property, time and effort, expertise, or any other thing that can be of value to the corporation. This stock is usually declared "1244 stock" so that it qualifies as founders stock under IRS codes. This type of stock is discussed in Chapter 4 in the "Owners Financing" section.
- E. Authorizing signatures for the corporate money accounts and for corporate contractual commitments
- F. Decide if an S corporation election is desired

8. File election for S corporation - If the corporation qualifies and the shareholders agree, IRS form 2553 must be filled out, signed by all the shareholders, and sent to the IRS. A copy should also be sent to the Montana Department of Revenue.

9. Purchase a corporate seal - Montana law no longer requires that a corporation have its own seal. However, some documents may ask for the seal to be affixed (some bank forms still list this requirement.) The seal is often used to imprint stock certificates for validation and may be used for other legal documents required by other organizations or institutions. A seal can be purchased at most office product stores, will cost between \$25 and \$40, and can take seven to ten days to receive.

10. Issue stock certificates - Stock certificates can be purchased in most office product stores. The certificate should be filled out and state the owner and the number of shares the certificate represents. An entry in a shareholders' ledger should be made for each

certificate issued.

11. Establish corporate books - A book or a set of files must be established and maintained for all corporate records. The books should contain the following:

The stockholders' ledger - a record of all stock issued or transferred, and a name and address list of all stockholders.

The Certificate of Incorporation - this certificate is sent to the company by the Secretary of State after filing the Articles of Incorporation and paying the required fees.

The Articles of Incorporation

The corporate bylaws

The minutes of the organizational meeting

The minutes of all subsequent board of directors' meetings

The minutes of all subsequent shareholders' meetings

Failure to maintain these records can result in a legal declaration that the company is not a true corporation. This declaration is referred to as "piercing the corporate veil." Should this occur, the owners of the company can lose their corporate liability protection. They will then be personally liable for all debts of the company including legal obligations resulting from any lawsuits against the company.

Establishing the company as a Montana Close Corporation can relieve the business of much of the on-going activities needed to maintain the corporate structure. If the company qualifies, consideration should be given to this structural option. A close corporation can always be changed by amending the Articles of Incorporation.

## **SAMPLE FORMS**

- 1-1 ABN23 Application for Assumed Business Name
- 1-2 C-5 Application for Reservation of Corporate Name
- 1-3 FC4 Application for Certificate of Authority of Foreign Corporation
- 1-4 SS4 Application - Employer Identification Number
- 1-5 2553 Election by a Small Business Corporation
- 1-6 Sample stock certificate

## **SAMPLE DOCUMENTS**

- 1-1 Articles of Incorporation
- 1-2 Bylaws
- 1-3 Partnership Agreement
- 1-4 Organizational Meeting Minutes and waiver

## **SOURCES OF INFORMATION**

Montana Secretary of State  
State Capitol  
Business Services Bureau  
Room 225  
Helena, Mt 59620  
Phone (406) 444-2034  
FAX (406) 444-3976

Internal Revenue Service - Tax guides  
Federal Building  
Helena, MT 59601  
Phone (800) 829-1040

Montana Department of Commerce - "Start-a-Business Center" checklist packet  
Small Business Development Center  
1424 Ninth Avenue  
Helena, MT 59620  
Phone (406) 444-4109  
(800) 221-8015  
FAX (406) 444-2808

Small Business Administration  
Federal Building

Helena, MT 59601  
Phone (406) 449-5381

**Montana Code Annotated**

**Title 35 - Partnerships and Corporations**

**Title 30 - Assumed Business Name**

**Attorneys Experienced in your business form**

**Partnerships**

**General Partnerships**

**Limited Partnerships**

**Corporations**

**S corporations**

**Montana Close Corporations**

**Accountants experienced in personal and business taxes**



## **CHAPTER 2**

### **COMPANY LOCATION**

#### **INTRODUCTION**

Location is one of the most important factors facing many businesses. A proper location can be critical to the success of the company. Location must provide a convenient access to the customer. Signs are often utilized to inform the customer of the location and the products or services offered. The location can positively or negatively impact the image of the company. It also must provide a cost effective place to conduct the business of the company.

Additionally, the operation of the business must conform to the laws that govern the use of the geographic area and of the physical building where the business locates. Local government officials will require proof that your business operation in your chosen location conforms to all local ordinances prior to approving and issuing a business license.

The local zoning ordinance covers how the land in a specific area can be used. Local building codes dictate how the buildings must be constructed and how the facilities can used. Building permits must be obtained to construct new buildings or to remodel or add on to an existing building.

If a business location violates local ordinances, a business license can be denied. If the business continues to operate in violation of ordinances, it can be ordered by the

court system to cease operation. The business owners' options are then to relocate, modify the location if permissible, modify the way the business operates if permissible, effect a change in the appropriate ordinance, or to terminate the business. Any or all of these alternatives can be very expensive.

If you are purchasing a business or a building, the real estate agent involved should be able to provide you with a significant amount of assistance in determining the legal suitability of the location. Be sure, if you are purchasing a location that the seller proves the legal suitability. If you are leasing space, the lessor should also be able to provide information on the zoning requirements. As in the case of a purchase, demand proof of suitability before signing any lease agreements. However, the ultimate responsibility is the buyer's.

If the business is located in the home, it is a requirement that you go through the process of verifying the suitability of your location. Most communities have a specific ordinance that covers home operated businesses. The home occupation ordinance is usually very specific and can be quite restrictive. Any business operated from the home is subject to these ordinances. Many business owners assume that they can operate their business from their home with no problems. Also, they may assume that the city/county will never find out and will not bother them. However, the home business is subject to the same laws as any other business. All it takes is for one neighbor to complain to the planning department and your business may be discovered and shut down. You also may be subject to fines and /or penalties.

The local "planning department" is the focal point for all activities related to the

local zoning ordinance and the to successful application for a local business license. You must consult them to find out the specific regulations and procedures that apply in your community.

## **CHECKLIST**

- I. Obtain a business license application form
  - A. City/County Treasurers office or
  - B. City/County Planning Department
- II. Verify compliance with zoning ordinance
- III. Verify compliance with building codes

## **ZONING REQUIREMENTS**

Local governments in the State of Montana may enact a zoning ordinance that defines the uses of lands within their jurisdiction, and are designed to protect the health, safety, and general welfare of the public. Most zoning ordinances regulate the density of residence and business development and the intensity of uses, such as resulting traffic growth. This ordinance provides the citizens living in the communities with the ability to plan how they want their community to develop physically. They can plan for the types of building permitted, the numbers of families that can live in an area, the types of businesses that can operate, and the types of recreational uses that are permitted. Zoning ordinances can be adopted by counties and by the cities and towns located within the counties to conform with the plans developed. At the present time, there are few, if any, counties in Montana that are completely zoned.

The first step taken by local governments in Montana is to develop a "Master Plan." The State of Montana requires that a master plan be developed before a zoning ordinance can be implemented. The Master Plan will contain a profile of the community, state its goals and objectives, describe pertinent history, discuss population, describe existing land uses, and define future land uses. The Master Plan is not law, but once approved by the a governing body, such as the county Council of Commissioners, it guides the development of the zoning ordinance which is law.

The second step is the development of a zoning ordinance. The ordinance defines specific geographic areas and defines the intended and permitted uses of the land. They will normally define residential, commercial, industrial, and agricultural uses. In Montana, most of the larger cities are completely zoned while most counties are not. A zoning ordinance can be passed by either the county or by cities within the county.

Local ordinances can define zones as they please and zones are usually defined differently from one local area to another. Some typical zones that define land use are shown in Table 2-1. Normally, uses of zones include the uses of any zone of more restrictive uses. For example, businesses that can locate in a local commercial zone also can operate in a community commercial zone.

Each zone class will define the purpose of the zone, its permitted uses, and building requirements. The building requirements include such items as minimum lot size, building size, utility specifications, distance from streets and lot boundaries (called "set-backs"), parking, signs, landscaping, fences, traffic density, noise levels, types of businesses allowed, and many more regulations pertaining to the types of activities and

physical structures allowed. Since each local area can be different, it is vitally important to determine the zoning requirements in your local community and for the area in which you would like to locate.

**TABLE 2-1**

**Common Montana Zoning Classifications**

Single family residences  
Dual family residences, duplexes  
Multiple family residences, apartments  
Local Commercial Zone - neighborhood shopping  
Community Commercial Zone - community shopping & businesses  
Central Commercial Zone - "downtown" shopping and businesses  
Commercial and light manufacturing  
Light industrial - reduced noise, odors, and smoke  
Heavy industrial - less restrictive - residences prohibited

The Master Plan and the zoning ordinance are administered in most communities by the local "planning department." This department often operates under a larger department such as the "community development" department and can operate under a variety of names depending on the city and county, but the functions are essentially the same from location to location. The role of the department is to maintain and enforce the ordinance and assist users in conforming to the ordinance. The Planning Department reports to an appointed Planning Board or Planning Commission.

The Planning Board is responsible for making changes to the Master Plan, zoning, re-zoning, and amending the ordinance. The local city council or County Commissioners are responsible for passing the ordinance into law.

Assisting the Planning Board is a Board of Adjustment. The Board of Adjustment has the responsibility to grant zoning variances if it determines that a variance will not cause undue hardship to other members of the community or if it is a unusual circumstance that deserves special consideration. In some communities, either the Board of Adjustment or the Planning Board may grant special use permits or grant conditional use permits for particularly unusual situations. Variances and permits provide a vehicle to permanently or temporarily allow uses that are not normally permitted by the zoning ordinance. A typical process for obtaining a permit or a local business license for a regular or a home operated business that is locating in an existing building is contained in Table 2-2.

**TABLE 2-2**

**Typical Business Licensing Process**

1. Discuss plans with the planning department staff and obtain a business license application form
2. Submit the application which will contain a legal description, a site plan, and the nature of the business
3. Planning department staff reviews the application and approves or denies
4. Building code enforcement department reviews the application and approves or denies
5. Other appropriate departments, such as the health department, review the application and approve or deny
6. If approved, the application is forwarded to business licensing staff
7. If denied, an appeal process is available through the Board of Adjustments

In some cities, a new use of a building will require closer scrutiny by the planning department and the process may be more involved. If a new building is being built or if remodeling is necessary, the process may become much more complicated. At a minimum, a building permit will be required. The scrutiny afforded building permits may be extensive in some local communities.

The first step in the process is to contact your local planning board to verify zoning requirements and make any application that is required (samples of business license application forms from Missoula and Butte-Silver Bow are shown at the end of this chapter.) You should discuss your plans with the department staff to get a complete understanding of how the process works in your community. Your planning department staff can also provide guidance and recommendations for how to conform to the requirements and how to proceed with your application. If there are problems and the application is denied, necessary changes to the site can be made or an appeal to the Board of Adjustments may result in a variance, a special use permit, or a conditional use permit.

Generally speaking, if the planning department supports your case, you may have a good chance of obtaining a permit. An appeal to the Board of Adjustments will result in a public hearing where you can state your case and anyone else from the area can voice their protest or support. Based on the law, the hearing, and the recommendation from the planning department staff, the board will render a decision. If it is not favorable, there is one more path of appeal - to the Planning Board itself.

The Board of Adjustments can apply its interpretation to the zoning ordinance, but cannot change it. The Planning Board is the source of zoning ordinance changes. An request for a zone change can be submitted to the Planning Board. Again, a public hearing must be held, the Board will forward a recommendation to the appropriate governing body who must then approve the ordinance change. If you are turned down by the Planning Board, the last recourse is to hire an attorney and take the case to the District Court.

The chances of successfully utilizing the appeals and change processes will depend greatly on individual situations, the content of the Master Plan, and the willingness of the neighbors to allow the change. The local planning department will be the most reliable source of information regarding the possibilities of success.

## **BUILDING CODES**

In addition to conforming with the zoning ordinance, the physical facility - the building - must conform to the building codes applicable to your intended use. Power requirements, ventilation, access, fire retardency, sewerage, building construction, and many other criteria may affect the suitability of the building for your particular use. If you are intending to renovate, remodel, or build an addition or a separate building, you will need a building permit. The permitting process will require verification that all applicable building codes are met. Local inspectors will visit the site to verify that the building and the site meets the specifications of the codes and then will indicate their



approval on the business license application form.

While investigating the suitability of your chosen location, you must visit the local building department to verify your building and any plans you have for changes will meet the local codes. You will need written verification from this department before you can be granted a local business license. If your site doesn't meet the applicable codes, you can make the necessary modifications and reapply for verification.

In most communities, the planning and building departments, along with the treasurer's office, work together and cooperate in assisting the businessman in meeting the local laws and rules. Depending on your location, you may be faced with these departments in both the city and the county. It is very important to verify with both the city and county that you are conforming with the proper procedures.

## **SAMPLE FORMS**

- 2-1 License application - City of Missoula
- 2-2 License application - Butte-Silver Bow

## **SOURCES OF INFORMATION**

City/County Treasurer's Department  
City/County Planning Department  
City/County Building Department  
Local real estate agencies

## **CHAPTER 3**

### **BUSINESS LICENSES**

#### **INTRODUCTION**

Many businesses are required to have licenses in order to legally do business in the State of Montana. Licenses may be required by a department of the Montana government. Licenses also may be required by the city or the county where the company resides and/or where it conducts business. A license bond or a surety bond may be required before a license is issued (Chapter 7 describes these bonds.) Additionally, other licenses may be required by the Federal government.

It is very important to recognize that obtaining a Federal or a State of Montana license does not mean that you don't have to obtain a local license. The State license does not address the actual location (other than in the State of Montana) where the business will be conducted. Many times, the local ordinances will not permit the business to operate in restricted areas. For example, you could obtain a Montana petroleum dealer's license, but you can't open a gasoline station in your back yard. It is essential that you contact your local planning board to verify that your proposed location meets the local zoning ordinance.

The new business must check with the Montana Department of Commerce Licensing Center to determine if Federal or Montana licenses are required. The new business also must check with both the city treasurer and the county treasurer to determine if any local licenses are needed. Most counties in Montana do not require

licenses. Most cities, however, do require them. Local licensing agencies will require an application form and approval from the local planning and building code departments (described in Chapter 2) and other applicable departments, such as the health department, the fire department prior to granting a business license.

Licenses are normally issued annually so you must re-new them each year. Some agencies will assess a penalty if your license re-newel is received late.

## **CHECKLIST**

- I. Federal Licenses
- II. Montana licenses
  - A. Obtain the "Montana Business Licensing Handbook"
- III. Local licenses
  - A. Business License Application
    - 1. County Treasurer
    - 2. City Treasurer
  - B. City/County Planning Department
  - C. City/County Building Department

## **FEDERAL LICENSES**

Federal licensing requirements are the most difficult to determine. Unlike state and local licensing procedures, there is no one place that you can go in the Federal Government to find out all the licensing requirements. The Federal agencies in Montana will normally refer general inquiries to the Montana Department of Commerce Business Licensing Center in Helena. The licensing specialist there can direct you to specific agencies or give you some starting points in the Federal government to start your information search.

Some of the Federal agencies that often are involved are:

**The Securities and Exchange Commission**

Provides investment advice and stock offering regulations

**Interstate Commerce Commission**

Regulates common carrier ground transportation

**The Food and Drug Administration**

Regulates the preparation of meat products,  
the production of drugs, and  
the production of biological products

**The Treasury Department - Bureau of Alcohol, Tobacco, and Firearms**

Regulates the production of tobacco products,  
the production of alcohol products, and  
the making or dealing in firearms

**The Federal Communications Commission**

Regulates radio and television broadcasting

## **MONTANA LICENSES**

There are fourteen departments within the State of Montana that issue licenses for business operations. License fees vary greatly from department to department and by type of business activity.

The Montana Department of Commerce (DOC) under its Business Development Center has established a Business Licensing Center. This center publishes annually the "Montana Business Licensing Handbook," which every new starting business should obtain. This free handbook is a compilation of state licenses and fees required by Montana law to do business in State of Montana. It lists requirements by business type and by State department. It also lists professional and occupational licensing requirements and the governing boards (see Table 3.1) which are regulated by the DOC Professional and Occupational Licensing Bureau.

**TABLE 3-1**  
**Professional and Occupational License Requirements**

Occupation:	Governing Board:
Acupuncture	Medical Examiners
Architect	Architects
Audiologist & Aide	Speech Pathologists & Audiologists
Boxer/ Wrestler	Athletics
Broker	Real Estate
Certified Public Accountants	Public Accountants
Chiropractor	Chiropractors
Cosmetologist	Cosmetologists
Cosmetologist Student	Cosmetologists
Dental Hygienist	Dentistry
Dentist	Dentistry
Dentist Anesthesia	Dentistry
Denturists	Dentistry
Electrologist	Cosmetologists
Engineer	Professional Engineers & Land Surveyors
Funeral Director	Morticians
Hearing Aid Dispensers	Hearing Aid Dispensers
Land Surveyor	Professional Engineers & Land Surveyors
Landscape Architect	Landscape Architects
Licensed Public Accountants	Public Accountants
Manager	Athletics
Manicurist	Cosmetologists
Manicurist - Student	Cosmetologists
Medical Doctor	Medical Examiners
Mortician	Morticians
Nurse registered or LPN	Nursing
Nursing Home Administrator	Nursing Home Administrators
Nutritionist	Medical Examiners
Occupational Therapist	Occupational Therapists
Optometrist	Optometrists
Outfitter	Outfitters and Professional Guides

A Department of Commerce Business Licensing Specialist can provide help to businesses in finding information and obtaining their necessary licenses. You must be registered with the Montana Secretary of State with either an assumed business name or as a registered corporation before you can obtain a license.

Montana recently eliminated its requirements for "store licenses." Retail and wholesale businesses do not need licenses and can now use their Federal Employer Identification Number to obtain sales tax exemption when purchasing goods from out-of-state suppliers.

Montana does not, as of 1992, have a state sales tax. Therefore, there is no "sales tax number," registration, or licensing pertaining to sales tax collection.

Table 3.2 shows the license requirements by Montana departments. Type of businesses are listed showing which departments may issue licenses. Some licenses also have bonding requirements. An "X" in the table indicates that a license may be required and you should check with that department. The following abbreviations are used for the departments:

- AG - Department of Agriculture
- DOC - Department of Commerce
- DFS - Department of Family Services
- FW& - Department of Fish, Wildlife, and Parks
- HES - Department of Health & Environmental Services
- DHS - Department of Corrections & Human Services
- DOJ - Department of Justice
- L&I - Department of Labor & Industry
- LVST - Department of Livestock
- DNR - Department of Natural Resources & Conservation
- PSC - Public Service Commission
- DOR - Department of Revenue
- DSL - Department of State Lands
- DOT - Department of Transportation

It is very important to understand that holding a Montana State license does not necessarily allow you to do business at a local level. Local licenses must be obtained and these licenses will be issued only if your business is in the proper location (as described in Chapter 2.) There are times when State and Local licenses are in conflict. The Local license will take precedence.

**TABLE 3-2**

**MONTANA STATE LICENSING REQUIREMENTS**

Type of Business	AG	DOC	DFS	FW&	HES	DHS	DOJ	L&I	LVST	DNR	PSC	DOR	DSL	DOT
Agricultural Feed/Fertilizer	X													
Alcoholic Beverages												X		
Bakery					X									
Barber/Beauty Shop		X												
Builder/Contractor/Construction		X			X			X						
Camp and Trailer Parks					X									
Candy, Nut, & Confectionery		X			X									
Car Dealers - New and/or Used							X							
Dairy Products		X			X			X	X					
Environmental Services					X									
Fireworks		X												
Fishing / Hunting				X					X					
Fruit & Vegetable Stands	X	X												
Fuels - Oil/Gas		X										X		
Fur Dealer				X										
Game Farms				X										
Grocery Stores		X			X				X			X		
Hardware Stores		X												
Health Care			X		X	X								
Hotels, Motels, & Lodging Places					X							X		
Individual and Family Services			X											
Lmber & Othr Bldg Spplies		X												
Meat & Fish		X			X			X	X					
Medical Services					X									
Misc. Food Sellers	X	X												
Motorcycle, Boat, or RV stores							X							
Nurseries & Garden Stores	X													
Outfitter and/or Guide					X									
Public Vocational Schools		X												
Restaurants					X							X		
Retirement Homes					X							X		
Sports & Recreation		X			X							X		
Timber/ Forest													X	
Transportation							X				X			x
Water										X				

## LOCAL LICENSES

In addition to any federal and state licenses that are required, most local governments require businesses to have a license to operate in the community where they reside. Licenses may be required by the county, the city, or both. The starting business should check with both the county treasurer and the city treasurer where the business is located. If any local licenses are required, the treasurer's office can direct you to the responsible officials. Some cities and counties in Montana do not have any licensing requirements, but you must check with them to be sure as regulations can change at any time.

Normally you will have to fill out a local business license application form (samples from Missoula and Butte-Silver Bow are shown at the end of chapter 2.) You will need to provide pertinent information about your business, its employees, its location, and the type of business activity that will be conducted. You will usually have to have the local planning department and the local building department approve your application before the treasurer's office will accept it. Refer to Chapter 2 for details on these departments. Additionally, depending on the type of business, you may have to have the fire department, the health department, the police department, and perhaps others approve the application.

There are several types of business licenses that local governments may require. There is usually an "all business" license with fees based on the number of employees, the physical size of the business, or the total revenue earned by the business. Every



business must obtain one of these licenses. Local governments also may require specific types of businesses to obtain special licenses. Table 3-3 lists license requirements for all businesses, fee schedules, and additional business type requirements for the six largest communities in Montana. In most of these communities, the city issues licenses and the county does not. Gallatin County issues transient licenses for \$5.00, and Butte, which has a consolidated city/county government, has only one treasurer's office and one licensing entity. Other counties and communities in Montana will have different regulations.

Local governments also may require surety bonds for certain types of businesses. The two most common are transient businesses and itinerant businesses. A transient business is one that uses a temporary place of business such as a motel room, a van, or a trailer. The business sets up, sells its wares, and leaves. A surety bond is required to insure that the location is cleaned up prior to the business leaving. An itinerant business is one that employs door-to-door sales persons. Surety bonds are required to protect against fraud and illegal business practices that have been common in these types of businesses.

<b>TABLE 3-3</b>						
<b>City Business License Fees</b>						
	<b>Billings</b>	<b>Bozeman</b>	<b>Butte</b>	<b>Helena</b>	<b>Gt Falls</b>	<b>Missoula</b>
<b>All Businesses required</b>	X	X	X	X	X	X
<b>Fee Range (\$)</b>	\$55-\$215	\$0-\$250	\$35-\$200		\$30-\$144	\$20-\$400
<b>Based on:</b>						
<b>Employees</b>	X		X		X	X
<b>Revenue</b>		X				
<b>Square Footage</b>	\$6	\$25		\$10		
<b>Fixed Fee (\$)</b>						
<b>ADDITIONAL FEES:</b>						
<b>Special Fees:</b>						
<b>Investigations</b>						X
<b>Health Inspection</b>	X					
<b>Alcoholic Beverages</b>	X			X	X	
<b>Special Type of Businesses:</b>						
<b>Auctioneers</b>				X	X	
<b>Banks</b>			X			
<b>Bill Board</b>			X			
<b>Boiler Room Operation</b>		X			X	
<b>Boxing/Wrestling</b>					X	
<b>Breeding Kennels</b>			X			
<b>Broadcasting Stations</b>			X			
<b>Carnival</b>		X	X			
<b>Coin Operation/Amusement</b>		X	X		X	
<b>Contractors</b>						X
<b>Distributing only</b>			X			
<b>Finance/Loan Broker</b>			X			
<b>Gambling/Video Poker</b>			X		X	
<b>Going out of Business Sale</b>		X				
<b>Home Based Businesses</b>	X	X			X	
<b>Hotel/Motel</b>		X				
<b>Itinerant</b>		X	X			X
<b>Junk Dealers</b>			X	X	X	
<b>Mining Companies</b>			X			
<b>Newspaper</b>			X			
<b>Pawn Broker</b>		X	X	X	X	
<b>Pool Tables</b>				X		
<b>Property Manager</b>						
<b>Railroads</b>			X			
<b>Refuse</b>					X	
<b>Salesman (peddlers)</b>				X		X
<b>Taxi</b>					X	
<b>Telemarketers</b>						X
<b>Theater/Drive In</b>			X			
<b>Transient</b>		X	X	X	X	X
<b>Utility Companies</b>			X			
<b>Water Companies</b>			X			
<b>Surety Bonds Required</b>			X	X	X	X

**SOURCES OF INFORMATION**

Montana Department of Commerce - "Business Licensing Handbook"  
Business Licensing Center  
1424 Ninth Avenue  
Helena, Mt 59620  
Phone (406) 444-4109  
(800) 221-8015

Local city and/or county treasurer's office  
Local city and/or county planning department  
Local city and/or county building department

## **CHAPTER 4**

### **CAPITALIZATION**

#### **INTRODUCTION**

A company must have some initial funds to cover the costs of starting the business, initial purchases, and operating expenses. Starting costs can include legal fees, consultant fees for accountants and attorneys, research and development costs, business cards and letterhead stationery, and other similar items. Initial purchases can include such things as equipment, furniture, and product and/or raw material inventory. Operating expenses include labor, operating supplies, rent, utilities, and other costs of operating the business. There must be enough money to cover these operating expenses until the business sells enough product or services to cover these expenses out of gross profit. One of the most common mistakes a new business makes is underestimating the operating costs and underestimating the amount of time needed to generate revenues and gross profit sufficient to cover these expenses.

There are two common sources for this required initial capital - equity, which is money supplied by the owner(s) of the business, and debt, which is money borrowed from another source such as banks or family and friends. The only source of equity in a sole proprietorship and a partnership is the proprietor and the partners respectively. Additional equity investment must come from adding another partner (in the case of a sole proprietorship, the business form must change to either a partnership or a

corporation.) Any other funds must come from debt. In many cases the investment is not in the form of cash, but represents property, equipment, services, or cash equivalents which can be assigned a cash value.

A corporation can sell stock to raise capital. It also can exchange stock for property, equipment, services, or cash equivalents. It is imperative that corporations wishing to sell stock to raise funds for initial formation, growth, diversification, or any other reason to be aware of the securities laws of the State of Montana. Disclosure of pertinent financial and business information to prospective purchasers of stock is required for all stock sales. This chapter presents an overview of the stock sale options available to Montana corporations. Anyone contemplating a stock offering should take the time to investigate these in detail with the Montana State Auditor's Office Securities Department. Although it is a regulating body, the Department is very helpful to those businessmen seeking information.

The most common sources of debt financing are lending institutions (such as banks), family, and friends. A detailed and formal procedure must be followed if the business is seeking a bank loan. A loan from a bank will result in a signed contract (note) with the bank defining the terms of the contract and of the repayment and interest schedules. When borrowing from family or friends, the company should always sign a similar contract so that both parties - the borrower and the lender - agree on the terms of the loan and the repayment.

Obtaining a loan from a bank will necessitate providing collateral to guarantee the loan. Collateral is something of value that the bank can sell to recover the amount

loaned in the event that the company can't repay the loan. Many times, a new business does not have adequate collateral. The Small Business Administration has a loan guarantee program for qualifying businesses that provides "collateral" to the bank for the loan. Banks can provide information and help with SBA loans.

## **CHECKLIST**

- I. Develop a business plan with proforma cash flow statement
- II. Determine owners' financing
  - A. Founders' stock
- III. Determine outside financing
  - A. Debt financing
    - 1. Bank
    - 2. Private - family and friends
  - B. Equity financing
    - 1. Small stock offerings
      - a. Limited offer
      - b. Montana Investment Capital Exemption (MICE)
      - c. Small Corporation Offering Registration (SCOR)
    - 2. Public stock offerings

## **BUSINESS PLAN**

The first step in determining the amount of capital a company needs is to prepare a business plan. Preparing a business plan is a lengthy and detailed process. Table 4-1 lists the necessary components of a business plan.

Although producing the plan is a big job, the effort will not be wasted. A bank will want to see your business plan. Potential stockholders or partners will want to see

TABLE 4-1

## Components of a Business Plan

- A. A brief description and history of your company
- B. A complete description of your company's products and/or services
- C. A description of the market area and your customers
- D. A description of your competitors and why customers will buy from you instead of the competition
- E. Your marketing strategy including pricing and promotion plans
- F. A plan of how you will operate the company
- G. A description of the management team including resumes
- H. A list of any critical risks and problems
- I. A "pro-forma" financial plan for the next three years including:
  - 1. Cash flow statement
  - 2. Income statement
  - 3. Balance sheet
  - 4. List of financial notes and assumptions

the plan. The plan also can be used to help provide the necessary "disclosure" that the Montana Securities Department requires that you provide to potential investors.

There are numerous books that describe how to develop a business plan. The "Montana Entrepreneur's Guide" written by Dr. Paul Larson is an excellent guide and even provides computer software to assist with the pro-forma financial plan. There are also organizations that provide free assistance for business planners. The Small Business Development Centers (SBDC's) located in many larger cities in Montana have experienced counselors ready and anxious to help. A call to the Montana Department of Commerce will provide you with the name and location of the SBDC nearest you.

The important part of the business plan relating to capitalization is the cash flow statement. This statement will tell you how much capital in excess of any generated

profit will be needed to get you through the first three years of operation. The amount needed can be obtained by debt, equity, or a combination of the two.

Owners of the company can provide both equity and debt funds. For example, Montana Stitchery, Inc. needs \$63,000. The owners buy \$40,000 of stock (equity) and loan \$23,000 to the corporation (debt.) As time goes by and the company starts making a profit, it can begin repaying the loan. The owners are able to receive cash from the company, in the form of the loan principle repayment, without declaring dividends or receiving a salary, both of which are taxable (the interest paid on the loan will be taxable.) The corporation also establishes a credit record which may be important if it needs to borrow money from a bank at a later time.

The total ratio of debt to equity should not exceed 3 dollars of debt to each dollar of equity. This ratio includes all sources of debt. A ratio that exceeds 3 to 1 will severely inhibit the company's ability to obtain any additional debt (additional debt may be needed if business is good and more money is needed to finance an expansion.)

## **OWNERS FINANCING**

The first step is to determine the ability of the owners of the company to provide funds. The amount that can be provided must then be divided between debt and equity. The ratio of total debt to equity should not exceed 3 to 1.



**Sole-proprietorship:**

Any funds needed that cannot be supplied by the owner must be obtained through debt. Sources are family, friends, and lending institutions such as banks, savings and loan associations, and credit unions. Lending institutions will need to have collateral provided. If the owner cannot provide the collateral, a co-signer who has the necessary collateral must be found. The co-signer is usually a member of the family or a friend. Debt financing is discussed in detail below.

If the only alternative for additional funds is through another investor who wants some ownership in the company, the sole proprietorship must change business forms to either a partnership or to a corporation. Either of these two forms will allow additional investment by an additional owner.

**Partnership:**

As is the case with a sole proprietorship, any funds that cannot be provided by the partners must be obtained through debt. Unlike a proprietorship, the partnership can admit another partner in exchange for investment funds. If another partner is admitted, the partnership agreement must be changed and the profit sharing ratios will be changed to provide the new partner with a share of the profits. It is important to remember that a partner does not need to be involved in the operation and management of the business. A "silent" partner simply provides funds in exchange for a share of the company's assets and profits.

**Corporation:**

Owners provide funds to the corporation by purchasing stock. This stock will usually qualify as "section 1244" stock, or "founders" stock. If 1244 stock later becomes worthless or if you sell it at a loss, section 1244 of the Internal Revenue Code allows the owner to deduct up to \$50,000 (\$100,000 for a joint return) as an ordinary loss rather than a capital loss. The distinction can be significant because any capital loss exceeding \$3,000 can only offset a capital gain, whereas an ordinary loss can always be deducted in full. 1244 stock is limited to the first \$1,000,000 of stock sold. In order to qualify, the owner must receive the stock in the form of a stock certificate.

If the founders of the corporation can't provide all the necessary funds, additional stock can be sold to other investors. Methods for selling stock are discussed in the "outside financing" section below.

In the case of a "C" corporation, equity investment is paid back to the investors through stock dividends, which must be declared by the corporate board of directors. Dividends of a "C" corporation are taxable to the shareholders on their individual tax returns.

In the case of a "S" corporation, the profits of the corporation are taxable to the owners in the ratio of the number of shares each owner holds. Selling stock to more owners therefore changes the profit allocation to the current owners. Selling stock in a profitable S corporation subjects the owners to a potential tax liability.

Losses of the corporation are also passed to the shareholders in the ration of their ownership. The total losses that can be taken by the owners is limited to the amount of

their investment of both debt and equity. In the example above in which the owners bought \$40,000 in stock and then loaned the company \$23,000, the maximum corporate loss that can be passed to the shareholders would be \$63,000. The total of equity and debt that each shareholder holds forms what is called the "tax basis." An accountant should be consulted when determining the tax basis for the owners. It is important to remember that stock sold to another corporation or partnership will cause the corporation to revert to a C corporation.

Debt financing is similar to the situation in the other business forms and is discussed below.

## **OUTSIDE FINANCING**

If the owners of the company cannot provide all the necessary funds needed, outside sources must be found.

Debt financing:

Most common sources of debt for the small company is family and friends. It is very important to sign a contract (note) for the loan amount, interest to be paid, and terms of payment. An example of a personal note is included in Appendix B.

The other common source of debt is a lending institution - usually a bank. Banks have a set of specific requirements for a company applying for a loan. Table 4-2 lists the most common requirements. Examples of a loan application and personal financial

statements are included in Appendix A.

**TABLE 4-2**

**Bank Requirements for a Commercial Loan**

- A. A bank loan application form
- B. A business plan  
Including three years proforma financial statements
- C. Personal financial statements for past 3 years  
for all major owners
- D. Personal tax returns for past 3 years
- E. 3 to 5 credit references

Banks are particularly concerned about how the loan will be repaid and, if it can't be repaid, how they can recover their money through the sale of the loan collateral. Therefore, the cash flow statement is very important to the bank. They will look first for sources of money that can be used to repay the loan. Common sources are:

1. Converting accounts receivable and inventory to cash through collections and sales
2. Cash flow resulting from profit on the sale of products and/or services
3. Re-financing the current debt (if interest rates go down)
4. Personal guarantees by principles of the corporation (sole proprietors and partners personally guarantee loans by the nature of the business structure)
5. Collateral that is not required for the operation of the business
6. Liquidation of the company - as a last resort

Other important cash sources that the bank will look closely at are increasing equity through additional owner investment and other potential sources of debt.

In many instances, the bank will require a co-signer for the loan. The co-signer will provide any collateral that the company cannot provide. The bank will require

personal financial statements and tax returns for the co-signer.

The Small Business Administration provides loan guarantee programs for qualifying small businesses. Often the only source of collateral is through the SBA loan guarantee program. All banks that deal in commercial loans will be familiar with the SBA programs and can provide information on how these programs can be used.

#### Equity financing:

Discussion of outside equity sales will be limited to situations where no more than \$1,000,000 of stock is offered in any 12 month period. Larger offerings require significantly more legal processes and professional consultants must be utilized when planning for large stock offerings. The discussion on public stock offerings contained later in this chapter would be appropriate for larger offerings.

The Securities Act of Montana governs the securities industry for any securities issued or traded within the State boundaries. The definition of a security includes, among other financial instruments, common stock issued by a small corporation.

The Montana Commissioner of Securities administers and enforces the Act through statutes and administrative rules. The Act was intended to protect investors, issuers, and traders of securities through rules designed to provide proper disclosures and to prevent fraudulent practices. These rules provide for registration of securities, registration of people involved in advising, trading, and selling securities, and providing penalties for offenses involving fraud, registration violations and other violations of the

act. In addition to other circumstances, fraud can be claimed if any "material information" is not made available to the investor, making disclosure documents such as prospectuses important to the capital raising process. Montana registration and exemption forms used for the Small Corporation Offering Registration (SCOR) and the Montana Investment Capital Exemption (MICE), which are described below, can be used to provide investor disclosure.

Anyone selling securities must meet certain qualifications outlined by the State. These qualifications generally deal with the legal and financial character of the seller.

Certain securities and transactions involving securities are exempt from the rules provided by the Securities Act. Some of these exemptions are of particular interest to the small businessman.

#### Importance to corporations:

Why should a businessman involved in raising a small amount of capital be concerned with the securities laws of Montana? After all, only a small amount of money and few people may be involved and the businessman may strongly feel that it is none of the State's business.

In most cases, there is not an overriding need for concern other than the legal and ethical issues (which are of undeniable importance) of obeying the laws of the State where the business is located. There are, however, issues that can drastically affect the pocketbook of the corporation owners and thus may attract more attention from those

owners.

Problems can occur when a corporation loses money, fails, or does not live up to expectations. If an investor wants to recover his/her lost investment, there are several avenues available to pursue. One of those is to charge that the corporation failed to properly register the stock and thus violated State statutes by dealing in unregistered securities. The burden of proving that the transaction was exempt from registration under the Montana Securities Act is not on the shoulders of the investor, but on those of the seller - ie. the corporation. Should this approach result in the conclusion that laws were violated - either with or without intent - the seller of the securities, the corporate board of directors, the corporate officers, and any other involved entities (including attorneys and accountants) can be held liable for the losses suffered by the stock holders. That liability, and the ramifications of a conviction for violating securities laws, certainly may be significant. Because of these possibilities, it is in the best interests of small corporation officers to be aware of the securities laws and to be aware of how they can protect themselves - and their investors - from potential problems.

Available options:

The most obvious method of conforming to Montana securities laws would be to register the corporate stock with the Securities Exchange Commission (the "SEC") in Washington, DC and with the Montana Securities Department. This process is complex, expensive, and results in strict federal reporting requirements. However, this type of

registration is probably unnecessary for the majority of small corporations.

The SEC has an exemption from registration under Regulation D of the 1933 Securities Act. This exemption was designed for corporations, limited partnerships, and other organizations dealing in interstate securities sales. Montana corporations dealing just within Montana will not normally be affected by Reg D, yet Montana has adopted rules that parallel SEC Regulation D rules. SEC Regulation D rules are of concern when sales of securities cross state boundaries for distribution beyond Montana, but which are not publicly offered. If you are offering sale of your company's stock in other states then you must be aware of Montana's and the other state's securities laws.

The first step in determining the best course of action for a small corporation seeking equity capital investment is to examine the securities and transaction exemptions that presently exist in Montana. There are two exemptions and one simplified registration process that will pertain to small corporations; a limited offer exemption, the Montana Investment Capital Exemption (MICE), and the Small Corporation Offering Registration (SCOR). Each of these programs has advantages, limitations, and disadvantages. A summary of these programs is contained in Table 4-3.

It is important to recognize that these programs can be used in the initial formation of a corporation or whenever additional equity capital is required. It is also important to recognize that disclosure of material information must be made to investors under any circumstances.



<b>TABLE 4-3</b>			
<b>Stock Offering Options Available in Montana</b>			
	Limited Offer	MICE	SCOR
Maximum Amount Raised	no limit (1)	\$500,000	\$1,000,000
Maximum # of Offers	10 - 25 (2)	no limit	no limit
Maximum # of Sales	25 (2)	40	no limit
Allowable Time Frame	12 mo	12 mo	12 mo
Escrow Required	no	yes	sometimes (3)
Registered Sellers	no	yes	yes
Sales Commissions Allowed	no	yes	yes
Qualified Investors Needed	no	yes	sometimes (3)
Advertising Allowed	no	no	yes (4)
Disclosure Required	yes	yes	yes
Montana Form Required	no (2)	yes	yes
Fees	none (2)	\$200	\$200 - \$1,000

- (1) SEC regulations apply when State Boundaries are crossed
- (2) At present, a letter is needed to notify Montana for offerings to more than 10 but less than 25 persons. A \$50 fee is required for offers exceeding 10.
- (3) Based on circumstances, Montana may impose requirements and usually does require an escrow account. However, there is more flexibility in establishing requirements.
- (4) Strict limitations are imposed. Advertising must be approved in advance by the Montana Securities Department. "Tombstone" ads are acceptable.

**LIMITED OFFER:****Characteristics:**

This is the most commonly used method for small corporations. The securities need not be registered if there are fewer than 10 offers to potential investors made within a period of twelve consecutive months. A notification to the Montana Securities Commission for an "expanded exemption" is required to go beyond 10 up to a maximum of 25 offers. There are vague interpretations of the law as to whether the corporate officers who are stockholders are considered as part of the 25, or if the 25 are in addition to the officers (this would be a consideration only during initial formation). An offer does not constitute a sale but merely an offer to sell. There is no limit to the amount of capital that can be raised, however, if State boundaries are crossed, SEC rules apply and the seller should investigate with the SEC. No notification to the Securities Commissioner is required until you go beyond 10 to 25. No remuneration to the seller can be given. The seller does not need to be registered with the State.

**Disadvantages:**

The term "offer" puts some severe constraints on this method. Even if a sales is not made, an offer was extended and counts as one of the 10 to 25 offers. "Offer" is defined in a manner that is subject to interpretation. Strictly

interpreted, if the seller communicates to a person that stock in the corporation is for sale, an offer is made and only nine more offers can be made. If none of the 25 offers (under the expanded exemption) results in a sale, then no stock can be offered or sold for a period of twelve months from the date of the first offer.

Danger exists here because of the definition of the term "offer". For example, if a newspaper article about the start of a new business contains statements indicating common stock is for sale, a strict interpretation could result in an offer being made to every reader of the article. If a disgruntled investor can demonstrate that offers were made to more than 25 people, a securities violation is proven. It is extremely important that the seller of the stock keep meticulous records regarding all offers, including the circumstances and the dates of both offers and sales.

### **MONTANA INVESTMENT CAPITAL EXEMPTION (MICE):**

#### **Characteristics:**

A maximum of \$500,000 of stock can be sold to forty or fewer qualified investors in a twelve month period. Qualified investors are those who are knowledgeable and able to afford the investment as specifically defined in the statutes. There is no limit to the number of offers that can be made. Commissions may be paid to

registered sellers of the stock if such commissions are disclosed to the investor. A minimum and maximum number of shares to be sold and the offering price must be specified and the minimum must not be less than 75% of the maximum. Funds raised must be deposited in an escrow account until the minimum is raised. If the minimum is not raised within six months, the funds must be returned to the investors. A twelve month period can be used to raise the stated maximum amount. Sellers must be registered with the State (use Form U-4).

A fairly elaborate exemption form must be filled out and approved by the State. The form is designed to make fairly complete disclosure of the corporation's financial status, the management team, the nature of the business, risks, history and the intended use for the funds. This form also must be used to provide the investor with the necessary information to meet disclosure requirements.

**Disadvantages:**

The major disadvantage of this method is the requirement for an escrow fund until the stated minimum amount of shares are sold. The funds are not available to the corporation during this period. Also, if the corporation fails to raise the minimum within six months, it must return the funds to the investors.

Because of the limited number of investors and the restrictions on the minimum number of shares that can be sold, there is considerable consideration that needs to be given to the structure of the offering in terms of number of shares, their

price, and the minimum needed.

## **SMALL CORPORATE OFFERING REGISTRATION (SCOR)**

### **Characteristics:**

SCOR is a Registration by qualification which requires that a Form U-7 disclosure document be prepared. This method has been used in Montana since March, 1991. It is also in use in all the States surrounding Montana making it easier to register for sales to investors living in those States. The form was developed and adopted by the North American Securities Administrators Association, Inc. SCOR can be used for both equity and debt offerings. Sellers must be registered with the State (use Form U-4).

Investment of up to \$1,000,000 in a twelve month period can be obtained from an unlimited number of offers to an unlimited number of investors. Commissions may be paid to registered sellers of the stock if such commissions are disclosed to the investor. Regional brokerage firms may be used to market the security and investor qualification is the responsibility of the seller. "Tombstone" advertising also may be used. If the offering is less than \$500,000, reviewed financial statements may be used in the disclosure process. If the offering is greater than \$500,000, audited statements must be used. A minimum (which can be zero) and maximum number of securities must be specified. The minimum is established

on a case by case basis. It is not always necessary to meet the minimum before funds can be used by the corporation. However, the State may, at its discretion, require investments to be directed into an escrow account until a minimum investment is raised; usually this is required.

A "fill in the blank" registration form must be filled out and approved by the State. As with the MICE form, this form is also designed to make an even more complete disclosure of the corporation's financial status, the management team, the nature of the business, risks, history and the intended use for the funds. The completed Form U-7 must also be used to provide the investor with the necessary information to meet disclosure requirements prior to making a sale. Also, under the SCOR Registration, shares of stock may not be sold for less than \$5.00 per share.

A requirement to submit a Form D of Regulation D of the Securities Act of 1933 must also be filed with the SEC claiming exemption from SEC regulation, if state boundaries are crossed.

**Disadvantages:**

In some circumstances, the State may require an escrow account be used until the minimum number of shares are sold. An example is when a company needs a minimum amount in order to build a plant. If the minimum can't be raised, the plant cannot be built and the offering must be rescinded. Investors funds are

protected in the escrow account in the case that a "refund" must be made.

The State of Montana usually will require that "Founders' Stock" be placed in escrow for two years if the founders of a company purchased stock at less than 80% of the offering price. This restriction is designed to protect new investors from actions by founders to dispose of their stock once new funds have been raised at a higher price per share.

Although the registration form is involved and complex, it is designed to be completed by a "layman" and does not require the assistance of a securities professional. Experience in the State of Washington has shown that the completed form is a useful tool in the marketing of the securities.

The SCOR form may not be used by mining, oil and gas companies, or other companies engaged in extractive industries.

## **OTHER CONSIDERATIONS**

There are sources of equity and debt financing available in Montana as a result of recent legislative actions. One of those sources is the Montana Science and Technology Alliance. State monies are available from the Alliance in exchange for convertible bonds issued by the corporation receiving the funds. It is the intent of the

Alliance to sell those bonds at some future date in order to liquidate its holdings and re-investment in other opportunities. It is conceivable that the corporation could issue an offering under the SCOR program in order to raise equity capital to purchase the bonds back from the Alliance and retire the debt. Securities sold to the Montana Science and Technology Alliance will generally be considered as "exempt transactions" by the Securities Department of Montana and will not be subject to registration requirements.

Other situations in which venture capital companies have invested and later desire to harvest their investment could be funded through stock offerings that must follow Montana securities procedures. The SCOR program appears to have the most potential for satisfying State requirements while providing the most flexibility for the corporation seeking capital.

## **PUBLIC STOCK OFFERINGS**

Although the extremely complex process of public stock offerings are beyond the scope of this guide, a brief description of the process is important for those companies that may consider the process at some future date. A company is in a position to consider public offerings when it reaches annual sales of \$15-20 million, has an annual net income of \$1 million or more, and is experiencing an annual growth rate of 30-50%.

A company "goes public" when it sells its stock to the general public for the first time. This process is called an "initial public offering" (IPO.) Sales to the public require the company to file a registration with the US Securities and Exchange



Commission (SEC) following the rules adopted with the Securities Act of 1933 before any share can be sold or delivered using interstate commerce or the mails. In addition, all pertinent information regarding the company and the owners must be disclosed to all potential investors. This disclosure document is called a prospectus. The registration with the SEC must include the prospectus.

The company can sell new shares of stock, existing stockholders can sell part of their holdings, or both. An investment banking firm must be retained to assist with the registration process and to "underwrite" the sale of the stock on one of the recognized stock exchanges located throughout the country. In addition to the investment bankers, experienced accountants and attorneys are required to assist with the registration and sale of the stock.

There are numerous advantages to going public. The stock may bring a higher price than would be obtained with a limited offering, an improved debt to equity ratio can enhance the company's ability to borrow money, the company's ability to offer additional public sales can be enhance its ability to raise additional equity, the company can be valued more effectively, the owners' ability to sell or liquidate all or a portion of their stock will be greatly enhanced, the company will gain a significant amount of prestige, and the owners can gain considerable personal wealth.

There also are some significant disadvantages. The cost of going public is very high both initially and on an ongoing basis. Out-of-pocket costs can range from \$200,000 to \$300,000 for a small offering plus a commission to the underwriters of up to 10% of the total offering. On-going expense of reporting financial information on an

annual basis to the SEC and to shareholders can be significant. All significant information about the company must be disclosed and therefore is available to the public, the customers, and the competitors. There will be constant pressure to maintain a growth pattern in order to keep the price of stock at a level that satisfies the shareholders. If enough stock is sold to the public, the original owners can lose control of the company.

Any serious consideration of public offerings should be discussed with experienced professionals. Unfortunately, in the State of Montana, there are few experienced professionals. Most Montana firms that have issued IPO's have utilized out-of-state attorneys, accountants, and underwriters. There are national firms with offices in Montana such as Dorsey & Whitney and Holland and Hart that are qualified to assist in many situations. The best source of practical information would be those corporate officials that have successfully completed an IPO.

## **SAMPLE FORMS**

- 4-1 Bank Application Form
- 4-2 Personal Financial Statement

## **SAMPLE DOCUMENTS**

- 4-1 Personal Note

## **SOURCES OF INFORMATION**

Montana Code Annotated - Title 30, Chapter 10 1989

Montana State Auditor's Office  
 Securities Department  
 Room 270, Sam W. Mitchell Building  
 Helena, MT 59620  
 Phone (406) 444-2040  
 (800) 332-6148

Small Corporate Offering Registration Form (U-7) 1989	
Administrative Rules of Montana 6.10.120	1988
Administrative Rules of Montana 6.10.124	1988

Montana Department of Commerce  
 1424 Ninth Avenue  
 Helena, MT 59620  
 Small Business Development Center  
 Phone (406) 444-4109  
 (800) 221-8015  
 FAX (406) 444-2808

Small Business Administration  
 Federal Building  
 Helena, MT 59601  
 Phone (406) 449-5381

**Reference Books:**

"Strategies for Going Public - An Entrepreneur's Guidebook", Deloitte Haskins & Sells  
 "Montana Entrepreneur's Guide" by Paul Larson, University Press, 1990

**Banks**

**Attorneys**

**Certified Public Accountant's**

## **CHAPTER 5**

### **EMPLOYEES**

#### **INTRODUCTION**

At some time during the life of a company, the decision to hire an employee will be confronted. Having employees significantly increases the complexity of management, the requirements for record-keeping, and the complexity of the appropriate legal processes. More time will be spent in accounting, payroll calculations, and government reporting.

The employer must accept additional responsibilities for calculating wages, conforming to wage and hour laws, calculating and paying employee withholding taxes, calculating and paying the employer's portion of taxes, providing a safe work place, establishing fair and equal treatment policies for employees, and establishing fair and non-discriminatory hiring practices.

This chapter covers the requirements for small businesses with fewer than 50 employees. When the company grows to larger numbers of employees, additional Federal requirements must be satisfied. ERISA, the Employee Retirement Income Security Act of 1974, specifies requirements for businesses to provide retirement plans for their employees. Compliance with ERISA requirements can be extremely complex. Additional State and Federal requirements are continually being developed, and business owners and corporate officers continually must be aware of ramifications to their

companies. Additional employees are often hired just to keep the company in compliance with existing and new regulations.

As you will find as you read this chapter, there are numerous Federal and State agencies involved with employee regulations. Each of these agencies has material designed to help the new business owner. Many have an "Employer Handbook" or similar brochure that details their requirements. Additionally, the Montana Department of Revenue publishes the "Montana Taxpayers Digest" that describes not only taxes pertaining to employees, but lists all license, permit, and other related fees and taxes plus available tax incentives provided by the State of Montana. This book is a must for the new business owner.

## **CHECKLIST**

- I. The Decision to Hire Employees
  - A. Independent contractors
  - B. Employees
    - 1. Wage and Hour laws
    - 2. OSHA requirements for the work place
    - 3. Taxes, insurance, and withholding
      - a. Employer paid
        - 1) Social Security and Medicare
        - 2) Federal unemployment tax
        - 3) Montana unemployment tax
        - 4) Montana worker's compensation insurance
      - b. Withholding - employee paid
        - 1) Social Security and Medicare
        - 2) Federal income tax
        - 3) Montana income tax
- II. Develop personnel policies
  - A. Employee manual
  - B. Application form

- C. Employee contracts (optional)
- D. Job description
- E. Recruitment process
- D. Interview process
- E. Evaluation process
- F. Hiring process
- III. Hire Employees
  - A. One-time forms:
    1. UI-1 Montana Unemployment Insurance Employer Registration
    2. RAUI1 Montana Unemployment Insurance Establishment Activity and Location Statement
    3. SF-MIS LF 100A Workers' Compensation Insurance Application
    4. ER-1 Montana Department of Revenue - Withholding Tax/Workers Compensation Payroll Tax Registration
  - B. Individual employee forms:
    1. Employee Contract
    2. W-4 form
    3. I-9 form - Employment Eligibility Verification
- IV. Employee Records
- V. Quarterly reports
  - A. Federal reporting
    1. IRS form 941 Quarterly Withholding
    2. IRS form 8109 Deposit Federal quarterly withholding amount
  - B. Montana reporting
    1. Montana MW-5 Quarterly withholding report
    2. Deposit Montana quarterly withholding amount
    3. Unemployment form UI-5 payroll report
- VI. Annual reports
  - A. Federal reporting
    1. IRS form 940 FUTA Tax return
    2. IRS forms W-2 Wage and Tax Statements
    3. IRS form W-3 Transmittal of Income and Tax Statements
    4. IRS form 1099-MISC independent contractor payments
  - B. Montana reporting
    1. Montana MW-10 Annual Reconciliation

## **THE DECISION TO HIRE EMPLOYEES**

If your business needs additional people to perform certain duties that you and the other owners don't have the time or abilities to do, you will need to hire help. That help

can take the form of an employee or an independent contractor. It is very important for the business to know the difference between a contractor and an employee.

An independent contractor is responsible for his/her own taxes, withholding, insurance, and record keeping. The contractor invoices the company for services rendered and the company simply pays the bill. An employee, on the other hand, is a part of the company. The company, as the employer, must pay social security and Medicare taxes, worker's compensation insurance, and unemployment insurance for all "common-law" employees. The employer may also have to withhold Federal and State income tax from the employee's wages and pay them on behalf of the employee to the appropriate government agency. Records must be kept and quarterly and annual reports submitted.

It is obviously simpler and less expensive to hire independent contractors rather than employees. However, there are specific rules that define an employee and an independent contractor. Even though you treat someone as an independent contractor, they may be, in the eyes of the government, an employee; and you will be liable for all appropriate taxes, insurance, and records.

The IRS definitions of employees and independent contractors, listed below, are generally followed by all the other agencies involved in employee taxes, insurance, and records. The IRS publication 15 - Circular E, Employer's Tax Guide, and IRS Publication 334 - Tax Guide for Small Business both have excellent descriptions.

## Independent Contractors

An independent contractor is one who follows an independent trade, business, or profession in which they offer their services to the general public. A individual is an independent contractor if the employer has the right to control or direct only the result of the work and not the means and methods of accomplishing the work. Generally, independent contractors must be in business for themselves. A corporation is, by default, an independent contractor when it performs services. A very serious consideration for independent contractors concerns the worker's compensation insurance laws in the State of Montana. Be sure to read the section on worker's compensation later in this chapter if you are an independent contractor or if you will be doing business with an independent contractor.

The IRS has placed an additional burden on the employer of independent contractors. The employer must file an annual report with the IRS, Form 1099-MISC, that reports all payments to independent contractors. This is to insure that the contractors properly report all their income to the IRS. Forms 1099-MISC must be provided to all independent contractors and must be sent, along with Form 1096 (a summary and transmittal form), to the IRS by the last day of February for the preceding year.

## Employees

The IRS defines a "common-law" employee as anyone who performs services to



the will and control of the employer in situations where the employer can control both what must be done and how it must be done. This is so even when you give the employee discretion and freedom of action, so long as the employer has the legal right to control both the method and result of the services. There are two usual characteristics of an employer-employee relationship; the employer has the right to discharge the employee; and the employer supplies tools and a place to work. All withholding, taxes, and insurance rules apply to common-law employees.

A "statutory " employee may not be a common-law employee, but if they are in one of the following categories, the employer must pay social security and Medicare:

- 1) A driver who distribute products from meat, vegetables, fruit, bakery items, or beverages or picks up and delivers laundry or dry cleaning - if the driver is your agent or is paid a commission.
- 2) A full time life insurance salesman.
- 3) An individual who works at home on materials or goods which the employer supplies and which must be returned to the employer or one designated by the employer, if the employer furnishes specifications for the work to be done.
- 4) A full time traveling or city salesperson.

Federal unemployment tax must also be paid by statutory employees except for those that are insurance salespersons or individuals who work at home.

"Statutory non-employees" are treated as self employed independent contractors. They qualify if they are real estate salespersons who are paid on production rather than the number of hours worked, or if the individual's services are performed under a written contract that states they will not be treated as employees for federal tax purposes.

## Wage and Hour Laws

If you hire employees, you must conform to the wage and hour laws of the State of Montana and the Federal Government. These laws address the minimum wage, overtime pay, exempt and non-exempt employees, equal pay, restaurant and contractor employees, and required record keeping.

**Minimum Wage:** Both the Federal and state governments set a required minimum wage. Employees must be paid at least the Federal minimum, but under no cases can they be paid less than the Montana minimum. The rate an employee is paid includes all payment made to the employee by the employer. Commissions, monthly salary, and hourly wages are all considered part of the employee's regular rate. Employees also can be paid on a "piece rate" basis. It is important for the employer to provide a piece rate that allows the normal employee to at least equal the minimum wage rate. If, as an example, Montana Stitchery paid employees \$10 for each garment bag they sewed and the normal employee took three hours to complete a bag, they would not be receiving the minimum wage rate of \$4.25 per hour (\$10 divided by 3 hours is \$3.33 per hour.)

**Overtime pay:** Non-exempt employees (generally hourly employees) must be paid overtime if they work more than 40 hours in a week or if they work more than 8 hours in a day. The overtime rate must be one-and-one-half times the regular rate. The total regular wage for a week, including salary, piece rate payment, and hourly rate, is divided by 40 to determine an hourly rate.

**Exempt Employees:** Employees that are not subject to overtime pay are considered to be "exempt." Exempt employees are those in executive, administrative, professional, or outside sales jobs. The Montana law also dictates other qualified exempt employees. Table 5-1 lists those specified employees that are exempt from both the minimum wage and from overtime pay.

**TABLE 5-1**

**List of Employees Exempt From Minimum Wage/Overtime**

1. Any person employed in an executive, administrative, or professional capacity.
2. Immediate family members of the employer, or who are dependent on the employer for at least half of their support as a "dependent".
3. Persons working in homes whose duties include "chores" such as baby-sitting, mowing lawns, and cleaning sidewalks.
4. Resident managers of lodging or personal care facilities who, as part of their employment terms, live in the facility.
5. Retired or semi-retired persons performing part-time work as a condition of their residence on a ranch or farm.
6. Learners under eighteen years of age employed as farm workers only if their wage exceeds 50% of the minimum wage rate.
7. Persons employed by a head of household to care for dependent children.
8. An employee of the United States Government.
9. Persons who volunteer their services to a non-profit organization - on a partially or fully reimbursed basis.
10. Certain persons, if a certificate is obtained from the Montana Commissioner of Labor and Industry, including persons involved in a accredited distributive education program, learners or apprentices for a period not to exceed 30 days, and handicapped workers in certain qualifying programs.

Source: Quick Reference Guide - Montana Wage/Hour Laws

The State of Montana also exempts other types of employees from overtime pay.

There is an extensive list of qualifying employees that partially includes: certain

commissioned salespersons, certain delivery persons paid on a trip rate or delivery plan, some agricultural workers, taxicab drivers, employees covered by certain Interstate Commerce Act provisions, certain police and fire-fighters, and certain health care employees. Because of the complexity and interpretation of exempt rules, it is important for employers to determine from the Montana Department of Labor and Industry if their situation qualifies for exemption.

**Non-Exempt Employees:** These employees are any employees who are not exempt. These employees are subject to overtime pay.

**Equal Pay:** It is illegal in the State of Montana to employ any woman for wages that are less than those paid to men for equivalent services.

**Restaurant and Contractor Employees:** The State of Montana places additional requirements on restaurant and contractor employers. Restaurant, bar or tavern owners must post a bond (see Chapter 7) with the Commissioner of Labor and Industry in the amount of at least double the projected semi-monthly payroll plus 3.8%. The bond is to ensure the payment of wages and payroll taxes. Contractors must file a surety bond with the Commissioner in an amount equal to the contractor's average monthly payroll. Specific information can be obtained through the Employment Relations Division of the Montana Department of Labor and Industry.

**Employee Records:** Employers must keep certain records for their employees. These records must be kept for a period of five years. Table 5-6 shows the records for each employee as specified by the Montana Minimum Wage Law and other State and Federal agencies plus other information that is useful to maintain. If there are unusual compensation pay arrangements, such as lodging or board, they also must be included in the records. Records must be kept for each pay period and include the beginning and ending date of each period, total wages and withholding, and the number of employees included in each pay period.

#### OSHA Requirements for Work Place

The Federal Occupational Safety and Health Act of 1970 provides job safety and health protection for workers by promoting safe and healthful working conditions. The Act provides requirements for the following:

1. Employers must furnish a place of employment free from recognized hazards that are likely to cause death or serious harm to employees.
2. Employees must follow all safety and health regulations that apply to their own actions and conduct on the job.
3. An OSHA compliance officer can inspect the work place for compliance to OSHA regulations. The owner (or a representative) and an employee can accompany the inspector.
4. Employees can file a complaint with OSHA requesting an inspection if they believe there are unsafe or unhealthful conditions. Employees are protected from repercussions by the employer.
5. If an inspection results in identifying a violation of the Act, a citation will be issued with a time period specified for correction.
6. Penalties ranging to \$1,000 for each violation can be assessed. If the violations are not corrected in the specified time frame, additional penalties of up to \$1,000

per day can be assessed. Willful or repeated violations can result in fines up to \$10,000.

OSHA will provide assistance to companies to help them conform to the ACT. It is very important for businesses to be aware of OSHA requirements and to be prepared to provide safe and healthful work places. There are many consultants that can provide assistance to companies that think they may be affected by the Act. Also, there are programs available through the Montana University System that can assist businesses.

#### **Taxes, Insurance, and Withholding**

Employers also are responsible for the payment of social security, Medicare, unemployment taxes, and worker's compensation insurance for their employees. The employer also is responsible for the withholding of the employee's income tax and his/her share of social security and Medicare taxes and for making the payments to the appropriate government agency for the employee.

#### **Employer Paid Taxes and Insurance:**

The employer also is responsible for the payment of the employer's share of the social security and Medicare tax, federal unemployment tax, Montana unemployment insurance, and worker's compensation insurance.

**Social Security and Medicare Tax:** The employer pays 6.2% of the employee's wages (up to \$53,400) to the federal government for social security tax and an additional 1.45% (up to first \$125,000) of the wages for Medicare taxes. These taxes are paid by the employer in addition to the worker's wage. These taxes are usually remitted along with the employee's share of taxes withheld from the employee's paycheck.

**Federal Unemployment Tax:** The Federal Unemployment Tax Act (FUTA) requires that the employer pays tax of 6.2% on the first \$7,000 of employee wages (a total of \$434.) However, if the employer pays State unemployment insurance on the employee, and pays it on time, a credit of 5.4% (\$378) can be taken against the amount due the Federal government. This credit effectively reduces the FUTA tax to .8% or \$56 per year. These taxes are paid by the employer in addition to the worker's wage.

**Montana Unemployment Insurance:** The employer in Montana pays Unemployment Insurance payroll taxes if they meet one or more of the criteria listed in Table 5-2. These taxes are paid in addition to the worker's wage.

Unemployment Insurance rates are based on a rate class and on your company's experience factor. For a new business, the rate assigned is the average rate of employers classified in the same industry. In addition to the class rate, an administrative tax of .1% is assessed each quarter. If you pay Montana Unemployment Insurance, remember to take a credit on your FUTA payment of up to 5.4% on the first \$7,000 of each employee's wages.

TABLE 5-2

## Employers Covered by Unemployment Insurance

1. Total annual payroll for the current or preceding year exceeds \$1,000.
2. The employer acquired all or part of a business which is already subject to unemployment law.
3. The employer is subject under the Federal Unemployment Tax Act (FUTA).
4. Agricultural workers were employed and collectively paid more than \$20,000 in cash for agricultural labor in any quarter of the current or preceding calendar year.
5. More than 10 agricultural workers were employed in agricultural labor on 20 days in 20 different weeks in the current or preceding calendar year.
6. Domestic workers were employed and paid \$1,000 or more in cash for domestic services in any quarter during the current or preceding calendar year.

Source: Tax Guide for Small Business - IRS Publication 334

**Worker's Compensation Insurance:**

Worker's compensation insurance is a legislative mandated insurance requirement which provides wage loss and medical benefits to workers injured on the job. An employer who properly carries the insurance is protected from legal action for damages for work related injuries suffered by its workers. Neither general liability nor health and accident insurance are substitutes for worker's compensation insurance. The Workers' Compensation Act of Montana, with limited exceptions, requires all employers to cover their full-time, part-time, seasonal, or occasional workers with workers' compensation insurance. Table 5-3 lists the employees that do not require coverage. This insurance payroll tax is paid by the employer in addition to the worker's wage.



It is of the utmost importance that the company recognize who is an employee and provide worker's compensation insurance for all employees. Hiring of independent contractors relieves the company from paying this insurance. The independent contractor must provide worker's compensation insurance for him/herself and for his/her employees. Should someone you do not consider to be an employee be injured and the State of Montana later determines this person was an employee, you will be liable for his/her medical expenses and lost wages (past and future.) The liability can be enormous!

TABLE 5-3

Employees Not Requiring Worker's Compensation Insurance

1. Sole proprietors or working members of a partnership
2. Dependent family member employees who are claimed as dependents for Federal tax purposes
3. Corporate officers who reject coverage
4. Employees covered by federal compensation laws
5. Casual workers who do not work in the usual course of the business operation
6. Licensed real estate brokers or salespersons
7. Volunteers (except for some police, fire, and search and rescue volunteers)
8. Household or domestic employees
9. Persons working in return for aid or sustenance only

Source: State Fund Employer's Pamphlet (SF-MIS PAM5)

Worker's compensation insurance can be obtained in three ways. Compensation Plan I allows financially capable companies to self insure. This method is not available to start-up companies. Compensation Plan II allows companies to purchase the coverage

from an approved independent insurance carrier. Compensation Plan III allows companies to purchase insurance provided by the Montana State Fund. Even though the rates for the Montana State Fund are higher than most surrounding states, they are usually lower than those provided by independent carriers (see Chapter 7.) For this reason, most employers use the State Fund for their coverage.

Montana State Fund rates for worker's compensation insurance are based on experience. All employers are subject to a one percent assessment on wages paid for a "Uninsured Employers' Fund", an assessment up to five percent for a "Subsequent Injury Fund", and a 0.28% assessment for Fund administration. Employers' are then assessed a rate based on experience and the classification of the occupations of their employees. New employers will be rated on industry averages for their employees job classifications. As would be expected, jobs that have little potential for injury, such as secretarial jobs, will be subject to a lower rate than high risk jobs, such as timber fallers. Conditions in the work place also can affect the rates. Rates are based on experience for established companies with the last three years as the base for the rates. An unsafe work place that contributes to injuries will result in much higher insurance taxes than one that is safe and experiences no injuries.

Business owners can be exempted from Worker's Compensation Insurance taxes. Corporate officers can apply to the State Fund for permission to reject coverage. State Fund form LF220E is used to reject coverage. Independent contractors also can apply

for exemption using State Fund form LF840A. This form also can be used for partnerships and sole proprietorships. Independent contractors normally will have to provide proof to their customers that they either have coverage or that they are exempt from coverage. The customers will not be willing to accept the possibility that, in case of injury, the State of Montana will rule that the contractor is an employee and that they (the customer) are responsible for coverage. It is important that you, as a business owner, recognize your potential liability if you hire an independent contractor that is not covered or is exempt. Be sure that any independent contractors that you hire prove coverage or provide documents from the Montana State Fund proving that they are exempt and that the State Fund cannot make you liable for injury costs.

If your company functions as an independent contractor, then you must supply the information described above to your customers. You can obtain the necessary forms from the State Fund to supply to your customers. The forms available are:

State Fund form LF220E - "Corporate Officer Rejection"

State Fund form LF840A - "Application for Independent Contractor Exemption"  
- for sole proprietorships or partnerships

#### Withholding - Employee Paid Taxes

Withholding taxes are those taxes that the employee is liable for, but that the

employer must withhold from the employee's paycheck. The withholding amounts must be paid to the Federal and Montana governments in behalf of the employee. The taxes that are included are the employee's share of social security and Medicare taxes and Federal and Montana individual income taxes.

These taxes must be paid to the government on a timely basis depending on the amount of taxes withheld and owing. Table 5-4 contains the IRS deposit rules.

Deposit Rule	Deposit Due
1. If at the end of the quarter your total tax liability for the quarter is less than \$500:	No deposit is required. You may pay the taxes to IRS with FORM 941 or 941E, or you may deposit them by the due date of the return.
2. If at the end of any month your total tax liability is less than \$500:	No deposit is required. You may carry the tax liability over to the following month within the quarter.
3. If at the end of any month your total tax liability is \$500 or more but less than \$3,000:	Within 15 days after the end of the month (unless you made deposits under rule 4).
4. If at the end of any eighth-monthly period (the 3rd, 7th, 11th, 15th, 19th, 22nd, 25th, and last day of each month) your total tax liability is \$3,000 or more but less than \$100,000:	Within 3 banking days after the end of that eighth-monthly period.
5. If at the end of any day during an eighth-monthly period your total tax liability is \$100,000 or more:	By the end of the next banking day.

Source: Employer's Tax Guide - IRS Publication 15

**Social Security and Medicare Taxes:** The employee's share of social security is 6.2% of the first \$53,400 of his/her wages and Medicare is 1.45% of the first \$125,000 in wages. This amount is deducted from the employee's wages and is paid quarterly to the Federal government (see the sections covering quarterly and annual reports following.)

**Federal and Montana Income Taxes:** An amount approximately equal to the employee's annual tax liability must be withheld from the employee's wages and paid to the government for the employee. It is the employee's responsibility to tell the employer how to determine the appropriate withholding amount using IRS Form W-4, which must be filled out by the employee at the beginning of his/her employment. The W-4 form can be re-submitted by an employee any time he/she wishes to change his/her claim. The W-4 form contains the number of dependents the employee wishes to claim and must be signed by the employee.

The employer subsequently uses this information and withholding tax tables provided by the Montana Department of Revenue and the IRS to determine the appropriate withholding amount. That amount is deducted from the employee's paycheck. The IRS provides withholding information in Publication 15 - Circular E - Employer's Tax Guide. Montana provides its information in the Montana Department of Revenue "Payroll Tax/ Withholding Tax Guide", published annually. Both the IRS and the Montana Department of Revenue have tax kits available that contain all the appropriate information for the business owner.

## **DEVELOP PERSONNEL POLICIES**

Once the company has decided to hire employees, it is necessary to establish some policies and procedures before actual hiring occurs. In the current legal climate of fair treatment, non-discrimination, and legal retribution, care must be taken that the hiring process protects both the employer and the employee. General policies and procedures that apply to applicants and employees need to be developed and be in place to provide the employer a basis for selection, evaluation, and termination. A human resources policy manual containing hiring practices, job descriptions, application forms, employee contracts, interviewing procedures, and evaluation and hiring procedures will provide a basis for managers for fair and equal treatment of applicants and employees.

### **Employee Manual**

The new company that is hiring employees needs to have the answers to many questions before it undertakes the task of recruiting, interviewing, selecting and hiring those employees. You must know what these employees will do for you, what you will pay them, what benefits you will provide, how you will evaluate them, and how you will terminate an unsatisfactory employee. Each prospective employee will want answers to the same questions in addition to an understanding of what is expected of them, the working conditions, the codes of behavior, the work hours, and how time off is handled.

Employers should document their expectations, procedures, and benefits prior to

hiring employees. Consistency of treatment among employees and an atmosphere of fairness can be maintained. An Employee Manual should address their policies, benefits, and special services. Table 5-5 lists some of the subjects that should be addresses in an employee manual. The company can print these policies in an employee manual that can be provided to each employee hired. The manual also will be the basis for decisions regarding the treatment of all employees.

### Application Form

An application form should be used to gather required information about the applicant. In addition to providing information about the qualifications of the applicant, the form can be used to gather the information that must be maintained for every employee (see the Employee Records section following.) In addition to the information required to be kept in the employee records (see employee records section), the application form should request information about the applicant's education, work history, and other qualifications. Samples of application forms can be obtained from companies you know, employment agencies, and numerous text books. A sample application form is included in the Sample Documents Section.

### Employee Contracts

Most employers are unsure of hiring a relatively unknown employee. They can use employment contracts to protect themselves from having to retain an unsuitable

TABLE 5-5

## Employee Manual Contents

- A. Policies:**
1. Employment, including probationary periods, equal opportunity, non-discrimination, and hiring of family members
  2. Supervisory system, including management structure
  3. Pay periods, payroll deductions, pay days, payroll reporting, and overtime
  4. Job classifications
  5. Conditions for employment such as criminal records, substance abuse, and any other conditions pertinent to maintaining employment
  5. Job promotion including seniority, pay for performance, and job evaluation policies
  6. Job conduct including codes of dress, conduct, attendance, absences, and hours of work
  7. Rules and regulations including use of company equipment and facilities, smoking, record keeping, and safety
  8. Employee grievance, termination, layoff, and recall policies
- B. Benefits:**
1. Holidays including a list of paid and unpaid holidays
  2. Personal time off for religious reasons, military leave, jury duty, and medical and legal appointments
  3. Vacation including number of paid days and how they are accumulated
  4. Maternity leave including amount of time available and job retention
  5. Leave of absences
  6. Group insurance for medical, dental, and disability including eligibility, cost, and rules.
  7. Travel Reimbursement
  8. Unemployment and worker's compensation insurance
  9. Retirement plans
  10. Profit sharing incentive plans
- C. Special Services:**
1. Any special services including use of company facilities such as recreation facilities, lunch room facilities, parking facilities, use of company equipment, or any other service



employee. An employee contract will include the job duties (from the job description developed - as discussed in the next section), the term of employment if it is not perpetual, the wage to be paid, how the employee can be terminated, and the description of a probationary period. The probationary period will allow the employer to terminate the employee without cause or justification within a period of time after employment begins. The normal probationary period is six months. This probationary period protects the employer from having to retain an employee that is not necessarily doing things wrong, but simply is not performing to expectations.

If either employment contracts are not in place or the company does not have specific policies presented to the employee, discharging an employee can be a difficult procedure. If the terminated employee can prove that he/she was discharged unfairly, was discriminated against in any way, or was not given the chance to improve their performance before dismissal, the employer may be subject to legal damages in addition to paying back wages and re-hiring the employee.

## Job Description

A job description must be developed for each job position for which the company will hire an employee. The job description will contain the job title, a brief description, an outline of the duties and responsibilities of the job, and the requirements in terms of education, skills, and experience for the job. The job description can be provided to the interested applicant. It will be used to compare the qualifications of the applicant for the

job, and it can become part of the employment contract. Later, it will be used to evaluate the performance of the employee in the job. A sample job description for a bookkeeper/accountant is contained in the Sample Documents Section.

### Recruitment Process

Once the employee manual, the application form, and the job description are completed, the search for suitable applicants can begin. Advertisements in newspapers and publications can announce the job. You want many applications to choose from, so the advertisement must make the job attractive to readers. It should contain brief but pertinent information about the job, the requirements, when applications are due, and how to apply.

Other sources of applicants are employment agencies and the Montana Job Service. Professional employment agencies will charge for their services by asking a fee of the employer or the successful employee. The Montana job service does not charge a fee.

One of the more popular and reliable sources of recruits is networking through other companies and personal acquaintances. Let people know that you are hiring. They may personally know someone that may be suitable that they can recommend. These applicants must still undergo the same evaluation processes that any other applicant goes through.

Each applicant should submit an application, provide a resume, and provide personal and professional references.

## Interview Process

Once the applications are submitted, the employer can begin the evaluation process. Applications are reviewed using the job description as a base for evaluation. The first task is to eliminate any applications that don't meet the minimum qualifications stated in the job description. The applications that remain can then be ranked according to your impressions of the applicants. You then can select the top applicants (often called "finalists") for a personal interview. Most companies will select at least three and as many as five applicants for interviews.

The interview will provide the employer the opportunity to ask many questions of the applicant and to evaluate his/her responses. The interview can be the most important step in the hiring process. Conducting an interview requires planning and preparation. A list of questions along with an evaluation "score sheet" should be prepared. Not only will this assist in the interview by making sure that you ask all the appropriate questions, it will provide a base for treating all applicants the same. If different questions are asked of each applicant, unsuccessful applicants can claim that they were discriminated against by preventing them from answering pertinent questions. This does not mean that every question must be asked of each applicant, but that the pertinent questions used in the evaluation of the applicants must be asked of each and every applicant.

Prepare a question and evaluation sheet for each interview, fill them out and keep them for at least one year. A sample of appropriate and inappropriate questions are included in the Sample Documents Section. The interviewer should take care to avoid

questions that are considered discriminatory. Although there are no questions that are expressly prohibited, direct or indirect questions related to race, color, age, religion, sex, or national origin should be avoided. As a general rule, if a question is job-related, is asked of everyone, and does not discriminate against a certain class of applicants, it is likely to be acceptable to government authorities.

### Evaluation Process

The process of evaluation and selection of an employee also must be done carefully. The employer needs to be able to determine the best applicant while insuring that no discrimination takes place and that the process is fair to all applicants. In addition to the application form, a resume, and a personal interview, the employer can ask the applicant to complete an employment test. Although testing lost popularity in the seventies and eighties, it is becoming popular again. It is, as a general rule, illegal to administer a lie detector test to applicants in the State of Montana.

Employment testing is an acceptable tool when it directly measures the applicants ability to perform the job. The most popular tests are those used to determine secretarial and clerical skills. Other commonly used tests are general aptitude, psychology and personality, mechanical aptitude, management skills, and industrial skills. If an employer is interested in using employment tests, consultants should be employed to provide guidance in administering the tests and in selecting acceptable tests that have been shown to have industry wide acceptance as a valid measure of skill or aptitude. Professional testing organizations and the business, education, and psychology departments in any of

the Montana University campuses can assist the employer.

There also are tests administered by professional organizations that certain professionals must complete to obtain professional credentials. Certified public accountants, professional engineers, licensed nurses, and other professionals have passed these tests, and prospective employers can ask for proof that the credentials were actually awarded.

An evaluation sheet should be developed with a list of all the important considerations. The criteria should include what the applicant "can do" and what the applicant "will do." Table 5-6 contains some typical criteria that can be used to evaluate applicants. The employer can expand these into specific criteria applicable to the job, assign a score for each criteria, and total the score for a relative ranking of each applicant. Other more intangible criteria also can be considered such as general suitability, job stability, growth potential, and cost of hiring.

TABLE 5-6

Applicant Evaluation Criteria

- |    |                  |   |
|----|------------------|---|
| 1. | Qualifications:  | education<br>experience<br>employment test results                            |
| 2. | References:      | past employers<br>personal references<br>validation of experience & education |
| 3. | Can-do factors:  | knowledge<br>skills<br>aptitudes  |
| 4. | Will-do factors: | Motivation<br>Interests<br>Personality characteristics                        |

The results of the evaluation should be kept for a period of one year in the case a complaint of discrimination is filed against the employer. The evaluation results will be the basis for justification of the hiring of the successful applicant.

If you cannot find any applicant that is acceptable, you do not have to hire the top ranked applicant. You may wish to hold the job open or to re-advertize later or in another geographic area.

### Hiring Process

When the best applicant is chosen, an offer of a job can be given to him/her. A phone call to verbally extend the offer is normal and is always followed by a written offer. The written offer should state the wage, the starting date, and any conditions of employment. If an employment contract is to be signed, the offer should reference the contract. A copy of the contract, if no negotiations are to be held between the employee and the employer, can be included.

It is generally best to receive acceptance of the offer before informing any of the other finalists that they were not selected. Should your first choice reject your offer, you can make an offer to the second choice without informing him/her that they were not the first choice.

Once the applicant accepts the position, you should inform the other applicants that you have made a selection, that you appreciate their time and their interest in your company, and thank them for applying.

## **HIRE EMPLOYEES**

### **One-Time Forms**

When your first employee is hired, there are three forms that must be filed with the State of Montana. These forms are one-time only and do not have to be filed with subsequent hires. The forms are used to register with the unemployment, workman's compensation, and payroll withholding administering agencies within the State of Montana. Samples of each of these forms are contained in the Sample Forms Section.

**UI-1 Montana Unemployment Insurance Employer Registration form:** This form must be filed with State of Montana Department of Labor and Industry Unemployment Insurance Division in Helena. The form contains information on the business, the owners, the company payroll record-keepers, and general employment information.

**RAUI1 Montana Unemployment Insurance Establishment Activity and Location Statement:** This form must be filed along with form UI-1. This form requires information on the activities of the business and its location or locations.

**SF-MIS LF 100A Workers' Compensation Insurance Application:** This form must be filed with State Compensation Mutual Insurance Fund (State Fund) in Helena. This form contains information on the business and the types of workers employed.

**ER-1 Montana Department of Revenue - Withholding Tax/Workers Compensation**

**Payroll Tax Registration:** This form must be filed with the Montana Department of Revenue Business Tax Section in Helena. This form contains information on the business and its owners.

These forms can be obtained from the appropriate department along with instructions by contacting them by mail or by phone. Phone numbers and addresses are listed in the Sources of Information Section.

### **Individual Employee Forms**

Each employee that you hire will require two government forms to be completed and a employee contract, if you choose to use one.

**Employee Contract:** An employee contract is used at the option of the company. Contracts can differ from employee to employee depending on the circumstances and the requirements of the job to be performed. A sample contract is contained in the Sample Documents Section.

**W-4 form:** This form is required by the IRS for each employee that is subject to payroll withholding taxes. This form does not have to sent to the IRS, but must be kept on file in the employee's records. This form is filled out by the employee and it directs the employer to withhold income taxes based on the information supplied. The form



contains the number of exemption allowances claimed by the employee and requesting any additional money to be withheld from the employee's paycheck. The number of exemption allowances will be used to calculate the amount of withholding from the employees paycheck.

**I-9 form - Employment Eligibility Verification:** This form is required by the U.S. Department of Justice and is used to prove that you are hiring either a U.S. Citizen or an alien (citizen of a foreign country) authorized by the Federal government to work in the U.S. This process is to prevent the employment of illegal aliens. It is the duty of the employer to obtain proof that the employee is a legal worker. The back of the I-9 form contains a list of acceptable documents that can furnish proof of eligibility. A U.S. citizen can provide a driver's license containing a photograph (a Montana driver's license is permissible) or a U.S. social security card issued by the Social Security Administration. If the employee is not a U.S. citizen, there are several documents that will provide the necessary proof of eligibility. Completion of the form and a photocopy of the employee's driver's license should be kept in the employee's permanent records. This form does not have to be sent to the Department of Justice, but must be kept in the company's employee records.

## **EMPLOYEE RECORDS**

Once you have hired employees, you must establish a set of records to keep for each employee. Table 5-7 lists the information that must be kept for each employee and

the records that must be kept for employees as a group. Unemployment insurance rules require that employment records for each employee be kept for five years.

It is imperative to maintain proper records. Any question from an employee, a Montana agency, or a Federal agency can be answered if the forms are filed appropriately and copies of the forms and any response received or correspondence from agencies kept in properly maintained files.

## **QUARTERLY REPORTS**

The company is responsible for filing quarterly reports on all employee tax payments and employee tax withholding. In addition to filing these reports, the amount of money owed by the company and the amount withheld from the employees' paychecks must be deposited with the IRS and the State.

### **Federal Reporting:**

IRS Form 941 Employer's Quarterly Federal Tax Return contains information about the number of employees, total wages paid, total employee income tax, FICA, and Medicare payments withheld, and total employer FICA and Medicare tax owed. These reports must be filed for each quarter of the calendar year and are due according to Table 5-8.

Taxes are paid using IRS Form 8109, Federal Tax Deposit Coupon. This Form is also used to make estimated income tax deposits for a C corporation (see Chapter 6

TABLE 5-7

## Required Employment Records

## General Information for Each Employee:

1. Name
2. Social Security Number
3. Home address
4. Date of birth
5. Sex
6. Occupation
7. Hire date
8. Date and cause of termination
9. Method of payment - hourly/salary/piece/commission
10. W-4 form
11. I-9 form and photo copy of driver's license
12. Proper documents if non-U.S. citizen

## Payroll Information for Each Employee:

1. Time of day and day of week worker's work week begins
2. Regular hourly rate of pay and length of pay period
3. Hours worked each day and total hours worked each week
4. Total daily or weekly straight-time earnings
5. Total weekly overtime compensation
6. Total additions to and deductions from earnings
7. Total wages paid each pay period
8. Date of payment and pay period covered by payment
9. W-2 forms

## General Group Information:

1. UI-1 State Unemployment Employer Registration form
2. SF-MIS LF 100A Workers' Compensation Insurance Application
3. ER-1 Montana Department of Revenue - Withholding Tax/Workers Compensation Payroll Tax Registration
4. Copies of all quarterly IRS 941 reports
5. Copies of all quarterly Montana MW-5 reports
6. Copies of all annual IRS 940 FUTA reports
7. Copies of all annual Montana MW-10 reports

for corporation estimated income tax payments.) This form will be sent to you when

you obtain your Federal Employer Identification Number (described in Chapter 1) or at the beginning of each year for existing businesses. The coupon and the payment should be sent either directly to the IRS or to a Federal Reserve Bank (FRB.) The bank you have your checking account with may be a FRB. If so, you can submit your payment to them. Your bank representative can help you with the process.

Quarter	Ending	Due Date
Jan-Feb-Mar	March 31	April 30
Apr-May-Jun	June 30	July 31
Jul-Aug-Sep	September 30	October 31
Oct-Nov-Dec	December 31	January 31

Source: Employer's Tax Guide - IRS Publication 15

#### Montana State Reporting:

Quarterly reports must be submitted to the Montana Department of Revenue for withholding taxes, the Montana State Fund for worker's compensation insurance, and to the Montana Department of Labor and Industry for unemployment insurance tax.

The Department of Revenue form MW-5 Quarterly Report, which will be mailed to you when you register with Montana using form ER-1, must be filed on the same schedule as shown in Table 5-8. Your payment must be included with your filed report.

The Montana State Fund prepares and sends a quarterly employee report to each business registered with them. The report must be filled out by the employer and the

payment calculated according to the instructions. The payment along with the completed report must then be returned to the State Fund.

The Montana Department of Labor and Industry requires form UI-5, Employer's Quarterly Wage Report, to be filed according to the schedule shown in Table 5-8. The report along with the payment must be returned to the Department of Labor and Industry. Instructions for completing form UI-5 are located on the back of the form.

## **ANNUAL REPORTS**

### **Federal Reporting:**

IRS form 940 or 940-EZ is used to report Federal unemployment tax. This form must be filed by January 31 for the prior year. The form and the payment due is mailed to the IRS. Federal unemployment tax is 6.2% of the first \$7,000 of wages paid for each employee. Remember, a 5.4% credit can be taken if you paid Montana (or any other state) unemployment tax.

IRS form W-2 is used to report to all your employees the amount of their taxable wages and the amounts withheld from their paychecks for State and Federal income tax, FICA, Medicare, and other applicable amounts. These forms must be supplied to the employees by January 31, for the prior year. W-2 forms are available at office supply stores, accounting firms, computer form companies, and from the IRS. The W-2 forms are multiple copy forms and have copies for the employee, the Federal government, the State of Montana, and the employer.

IRS form W-3 is used to report the total amounts for all the employees' W-2 forms to the Social Security Administration. The W-3 form is a "transmittal" form and must accompany "copy A" of all the W-2 forms that are to be sent to the Social Security Administration. Form W-3 must be sent to the IRS by the last day of February for the prior year.

If you have hired independent contractors and have paid them \$600 or more during the calendar year, you must file an IRS Form 1099-MISC for each contractor. Also, if you sell products to a direct seller of consumer goods and have sold more than \$5,000 of product to them during the year, you must prepare a Form 1099-MISC, with a copy for the contractor and a copy for the IRS. These forms are due by the last day of February for the preceding year. The 1099-MISC sent to the IRS must be accompanied by a Form 1096, which is a summary of all your 1099-MISC forms. You do not have to withhold any taxes or pay any taxes or insurance taxes for the independent contractors. They are responsible for these items themselves. The IRS is particularly concerned with independent contractor's taxes and thus have instituted this reporting procedure.

#### Montana State Reporting:

The Department of Revenue requires an annual reporting of all wages and withholding amounts. Form MW-10 Annual Reconciliation is similar to IRS form W-3 and reports total amounts. The report is due by February 28 for the preceding year. Form MW-10 accompanies the Montana copy of the employees' W-2 forms. Montana

also requests that an adding machine tape, or similar report showing a recap of the Montana State Tax from the W-2 forms along with your report. The MW-10, State copies of the W-2's, and the recap report is sent to the Montana Department of Revenue.

The Montana State Fund does not require any annual reports for workman's compensation insurance and the Montana Department of Labor and Industry does not require any annual reports for unemployment insurance.

### **SAMPLE FORMS**

- 5-1 Form W-4 - Employee's Withholding Allowance Certification
- 5-2 Form I-9 Employment Eligibility Verification Form
- 5-3 Form UI-1 - Montana Unemployment Insurance Employer Registration
- 5-4 RAUI1 - Montana Unemployment Insurance Establishment Activity and Location Statement
- 5-5 Form SF-LF100A - Worker's Compensation Application
- 5-6 Form SF-LF220E - Corporate Officer Rejection Endorsement
- 5-7 Form SF-LF840A - Application for Independent Contractor Endorsement
- 5-8 Form ER-1 - Montana Department of Revenue - Withholding Tax registration
- 5-9 Form 941 - Employer's Quarterly Federal Tax Return
- 5-10 Form 940 - Employer's Annual Federal Unemployment (FUTA) Tax Return
- 5-11 Form W-2 - Wage and Tax Statement
- 5-12 Form W-3 - Transmittal of Income and Tax Statements
- 5-13 Form MW-5 - Employers Payroll/Withholding Tax Report
- 5-14 Form MW-10 Annual Reconciliation (Withholding Tax)
- 5-15 Form UI-5 - Montana unemployment annual payroll report
- 5-16 Form 1099-MISC - IRS independent contractor payment reporting
- 5-17 Form 1096 - IRS Annual Summary & Transmittal of US Information Returns

### **SAMPLE DOCUMENTS**

- 5-1 Job Description - Bookkeeper/Accounting clerk
- 5-2 Employment Application Form
- 5-3 Employee contract
- 5-4 Interview questions

**SOURCES OF INFORMATION****Montana Department of Revenue**

1. "Quick Reference Guide Montana's Wage/Hour Laws"
2. "Montana Withholding Tables"
3. "Montana Payroll Tax/ Withholding Tax Guide"
4. "Montana Taxpayers' Digest"

**Income and Miscellaneous Tax Division****Third Floor, Sam W. Mitchell Building****Helena, MT 59620****Phone (406) 444-2837****(800) 332-6103****State Compensation Mutual Insurance Fund**

1. "General Information Pamphlet"
2. "Employer's Pamphlet"
3. "Application Instruction Pamphlet"

**5 South Last Chance Gulch****Helena, MT 59601****Phone (406) 444-7711****(800) 332-6102****FAX (406) 444-5963****Montana Department of Labor and Industry - "Unemployment Insurance Employer Handbook"****Unemployment Insurance Division****Lockey & Roberts Streets****Helena, MT 59620****Phone (406) 444-3834****Internal Revenue Service**

1. Publication 15 - Circular E - Employer's Tax Guide
2. Publication 334 - Tax Guide for Small Business
3. Publication 910 - Taxpayer's Guide to IRS Information, Assistance, and

**Publications****Federal Building****Helena, MT 59601****Phone (800) 829-1040**



Department of Justice - "Handbook for Employers"  
U.S. Immigration Service  
Department of Justice  
Federal Building  
Helena, MT 59601  
Phone (406) 449-5288

US Department of Labor  
OSHA  
Phone (800) 332-7087

## **CHAPTER 6**

### **TAXES**

#### **INTRODUCTION**

This chapter provides information about business related tax requirements of the Federal, Montana, and local governments. It is not the purpose to give advice or instruction on how taxes are reported or calculated. Individual situations can vary so significantly that it is recommended that a tax consultant or a CPA be used to advise the business owner about their own situation. This chapter describes the types of taxes that the company is or may be subject to and the reporting requirements. Taxes associated with employees, however, were described in detail in Chapter 5. Those taxes will not be revisited in this chapter.

Companies and/or their owners are subject not only to income taxes, but to other possible taxes or fees. In some cases, such as partnerships and S corporations, taxes may not be assessed but reporting of income must still be made to the government. Income taxes are paid to the IRS and the State of Montana. Property taxes are assessed by both the State and local governments, but are paid only to the local government (with a few exceptions.)

Other taxes are paid in the form of excise taxes or license, permit, or other fees. Some of these fees are paid by the company to the collecting authority and others (such as some excise taxes and license fees) are collected from the customers by the business

and paid to the collecting authority on behalf of the customer. The collection and payment are the responsibility of the company (see Chapter 7 for information regarding surety bonds required for companies collecting taxes of fees from customers.) At the present time, Montana does not have a State Sales Tax so no bonding, collection, or reporting for sales taxes is required.

## **CHECKLIST**

- I. **Income and Self-Employment Taxes**
  - A. **Sole Proprietorship**
    - 1. Federal - Individual 1040 and Schedules C and SE
    - 2. Montana - Form 2 Montana Individual Income Tax Return
    - 3. Quarterly estimated tax - IRS Form 1040-ES
  - B. **Partnership**
    - 1. Federal
      - a. 1065 US Partnership Return of Income
      - b. Schedule K-1 (Form 1065)
      - c. Individual 1040 and Schedules E and SE
    - 2. Montana - PR-1 Montana Partnership Return of Income
    - 3. Quarterly estimated tax - IRS Form 1040-ES
  - C. **Corporation**
    - 1. C corporation
      - a. Quarterly estimated payments - IRS Form 8109
      - b. Annual tax return - IRS Form 1120
      - c. Montana Form CLT-4
    - 2. S corporation
      - a. Annual tax return - IRS form 1120S
      - b. Individual 1040 with K-1
      - c. Montana Form CLT-4
      - d. Quarterly estimated tax - IRS Form 1040-ES
- II. **Property Taxes**
- III. **Excise and Business Taxes and Fees**

## **INCOME and SELF-EMPLOYMENT TAXES**

Income taxes are paid on the profit generated by the business. The business form that you have chosen will determine the method that will be used to report your income and to pay your taxes, if any are due. Even if taxes are not due because you did not make a profit, the proper tax reports must be submitted to the IRS and to the State of Montana.

Profit is determined by subtracting all business related costs and/or expenses from the total income received from the sale of your business's products and/or services. Income can take the form of money received from the sale of your product or service, interest the company earns on deposits, fees for services, rents, dividends, and "barter" items. Barter items are those things received from another source in exchange for services or products that you or your business provides. The IRS considers the fair market value of the product or service to be the income.

Generally speaking, any costs that you incur that are directly related to the operation of your business qualify as expenses. Wages paid, the amount paid for products you are reselling, rent, telephone, heat, supplies, accounting fees, use of an automobile, travel, uncollectible debts, and equipment depreciation are all allowable expenses. Any costs related to your personal needs are not considered to be expenses.

The "Tax Guide for Small Business" published by the IRS is an excellent guide for the small business. It explains what constitutes income and expense, what records and information is needed, what business assets are, how to figure profit, how to sell

business assets, the requirements of each type of business structure, and even provides examples of completed tax forms. This guide is a must for the new small business. A checklist for Federal Taxes is provided in Table 6-1. The other important source of assistance is a Certified Public Accountant (CPA).

It is vitally important that the small business keeps accurate records in order to be able to calculate taxes. There are numerous microcomputer software packages ranging in prices from \$50 to \$300 that do an amazingly good job for many small companies. Additionally, there are personal financial software packages that can satisfy basic requirements. If the business doesn't have a personal computer, a manual book-keeping system can be used to record all income and expenses. At the minimum, each business should contact its local bank and open a business checking account that should be used for all expenses and income. The checking account transactions will provide most of the information an accountant will need to prepare the income taxes.

With properly maintained company financial records that are kept up to date, the process of filing and paying taxes will be greatly simplified.

**Sole Proprietorships:**

The sole proprietor is responsible for income taxes on the profit generated by the business and is also responsible for self employment taxes.

<b>TABLE 6-1</b>			
<b>Federal Tax Checklist</b>			
<u>You may be liable for:</u>	<u>Business Form:</u>	<u>Form:</u>	<u>Due Date:</u>
Income Tax	Sole Proprietor Individual - partner or S corporation owner	Schedule C (1040) 1040	April 15 April 15
	C Corporation S Corporation	1120 or 1120-A 1120S	March 15 March 15
Self-Employment Tax	Sole Proprietor or Partner	Schedule SE (1040)	April 15
Estimated Tax	Sole Proprietor, Partner, or S Corporation owner Corporation	1040-ES	15th of April, June, Sept, & January
		1120-W	same as 1040-ES
Annual Income Return	Partnership	1065	April 15
Excise Taxes	All forms	Various	Varies

Source: Tax Guide for Small Business - IRS Publication 334

### Income Tax:

The owner of a sole proprietorship will report taxes on his/her personal income tax return. All appropriate business income and expense activity is reported on Schedule C of the owner's IRS Form 1040 Annual Tax Return. There are no separate Federal or Montana tax reporting requirements on the business. The Form 1040 return is due on April 15 for the prior year. Montana requires this report to be included with its individual income tax return also.

Although the tax payment isn't due until April 15, the owner should be aware of some additional and significant considerations. The IRS requires that individuals pay 90% of their tax liability or an amount equal to their prior year's total taxes by January 15 of the following year. Failure to pay results in penalties and interest. Also, if the business is quite profitable and a significant amount of tax is due, having the entire

amount due at one time often places the owner in a very poor cash flow situation, and may require him/her to seek a loan to pay the taxes. The owner should file estimated tax returns on a quarterly basis and pay estimated taxes due. This spreads the taxes owed over four payments and the cash flow problem is therefore reduced significantly. Estimated tax returns can be filed using IRS Form 1040-ES.

#### **Self-Employment Tax:**

As the owner of a sole proprietorship, you will most likely be responsible for self-employment taxes for social security and Medicare. The 1992 self employment rate for social security is 12.4% of the first \$53,400. For Medicare taxes, the rate is 2.9% of the first \$125,000. Self-employment taxes are reported on Schedule SE of the owner's IRS Form 1040 Annual Tax Return.

#### **Partnerships:**

The owners of a partnership are responsible for income taxes on the profit generated by the business and also are responsible for self employment taxes. Additionally, the partnership must file a Federal tax return, although the partnership pays no income tax.

#### **Income Tax:**

Partnerships are very similar to sole proprietorships except that the partnership must file an "information" annual return of income using IRS Form 1065 - U.S. Partnership Return of Income, and Montana Form PR-1 - Montana Partnership Return

of Income. Along with forms 1065 and PR-1, a Schedule K-1 will list each partner's share of the income. The shares are determined by the partnership agreement.

The partners are responsible for reporting their income on their individual IRS Form 1040 and Montana Form 2, similar to the sole proprietor. The K-1 form must be included with the IRS Form 1040. Estimated tax considerations are the same as those for sole proprietors.

#### **Self-Employment Tax:**

As a partner in a business, you will most likely be responsible for self-employment taxes for social security and Medicare. The 1992 rate for social security is 12.4% of the first \$53,400 and for Medicare is 2.9% of the first \$125,000. Self-employment taxes are reported on Schedule SE of the partner's IRS Form 1040 Annual Tax Return.

#### **Corporation:**

The corporation will be responsible for paying taxes if it is a C corporation. An S corporation is treated like a partnership with the income (or losses) allocated to the shareholders who are responsible for paying taxes on their individual tax returns. Corporation owners are not subject to self-employment taxes. Tax returns must be filed even if the corporation did not make a profit for the year.

#### **C Corporation:**

The C corporation uses IRS Form 1120 to report its income and any tax due.



Certain small corporations can use the simplified Form 1120-A. Filing is due on the 15th day of the 3rd month after the end of the corporation's tax year (normally March 15.) If the corporation expects to make over \$500 in profits for the year, it must make an estimated tax payment each quarter. Estimated payments are made with IRS form 8109 (the same form used to report employee withholding as discussed in Chapter 5) and must be made on the 15th day of the 4th, 6th, 9th, and 12th months of the corporation's tax year. Form 1120-W can be used to determine the amount of tax to be paid, but the form should be kept by the corporation - not sent in with the payment. Tax rates for C corporations are shown in Table 6-2.

Montana requires that the corporation file an annual income tax return using the Montana Corporation License Tax Return Form CLT-4. The return should be accompanied by the corporation's Federal return 1120. Montana's 1991 corporate tax rate is a flat 6.75%.

### **S Corporation:**

The S corporation is taxed just like a partnership. The corporation must file an annual tax return using IRS Form 1120S. The return must be sent to the IRS, but no tax payment is required. IRS Form K-1 (Form 1120S) Shareholder's Share of Income, Credits, Deductions, Etc. is used to report each shareholder's share of the corporation's income (or loss.) The K-1 forms are then included with the individual's annual 1040 Income Tax Return.

The considerations for the individual shareholder's tax liability are the same as

for partnerships. If there is income to be reported, the individual shareholders may need to file quarterly estimated taxes using IRS Form 1040-ES.

<b>TABLE 6-2</b>	
Corporate Tax Rates	
<u>Taxable Income</u>	<u>Tax Rate</u>
Not over \$50,000	15%
Over \$50,000 but not over \$75,000	25%
Over \$75,000	34%
Over \$100,000	Additional 5%
At Least \$335,000	Flat rate of 34%

Source: Tax Guide for Small Business - IRS Publication 334

Although the S corporation is treated like a partnership for tax purposes, the individual shareholders are not responsible for self-employment taxes. Your CPA should be consulted regarding retirement plans that may substitute for or augment social security.

Montana requires that the S corporation, the same as a C corporation, file an annual income tax return using Montana Corporation License Tax Return Form CLT-4.

## **PROPERTY TAXES**

Both real (real estate) and personal (equipment) property are subject to property (ad valorem) taxation. Most real and personal property is assessed locally. Property that is in more than one county, such as railways, telephone lines, power lines and pipelines, are centrally assessed by the Montana Department of Revenue.

Tax rates vary slightly depending on the type of property. The rate is calculated using a "mill rate" that is an aggregate of State and local mill levies determined annually for the purpose of funding city and county governments, schools, and the university system. The mill rate is expressed in one thousandth of a percent (ie. a mill rate of 350 results in a tax percentage of 3.5%.) The tax liability for each item of property is calculated as follows:

Market Value X Classification Rate = Taxable Value

Taxable Value X Mill Levy = Tax Liability

The classification rates vary depending on the type of property being taxed. The 1991 Montana Legislature grouped most commercial property into a single classification with a rate of 9%. The only exception is lease or rental property valued at less than \$5,000. Table 6-3 lists property classifications and their corresponding rates. For example, the tax for a new \$5,000 computer system in a city/county with a mill levy rate of 425 mills would be  $(5000 \times 9\% \times .0425)$  \$19.12.

The local assessor's office will send Form PPB-2 "Business Property Reporting Form" to businesses sometime in January or February. The form must be filled out with all the commercial property owned by the business on January 1 of the current year, and returned to the assessor's office within 30 days of receipt of the form. The assessor's office will apply depreciation schedules appropriate for the equipment type, calculate the tax liability, and send an assessment notice to the business. The assessed taxes must be

paid within 30 days of the receipt to the assessment notice. Assessment notices are usually sent out by May of each year. Your local treasurer's office will have classification and mill levy rates that apply in your location.

**TABLE 6-3**

**Property Tax Classifications**

Supplies	Class 8	9%
Commercial Furniture and Fixtures	Class 8	9%
Hand Held Shop Equipment & Tools	Class 8	9%
Non-Hand Held Shop Equip & Tools	Class 8	9%
Warehouse Equipment/ Heavy Equip.	Class 8	9%
Manufacturing Machinery & Tools	Class 8	9%
Mining Machinery & Tools	Class 8	9%
Cable Television Systems	Class 8	9%
Theater Projectors & Sound Equip.	Class 8	9%
Radio-TV Broadcasting Equipment	Class 8	9%
Lease & Rental Property < \$5000	Class 6	4%
Lease & Rental Property > \$5000	Class 8	9%

**EXCISE AND BUSINESS TAXES AND FEES:**

Both the Federal and Montana government collects excise and other business taxes for certain products and activities. These taxes have been levied as a result of Federal or State legislative actions. Table 6-4 shows items that are subject to Federal excise taxes.

Table 6-5 shows items that are subject to Montana Taxes. Licenses, which are also required by some Federal and Montana agencies, are not included in these lists and are discussed in Chapter 3.

**TABLE 6-4****Federal Excise Taxes****Environmental Taxes:**

Domestic crude oil

Imported crude oil

Manufacturers or importers of:

Ozone-depleting chemicals

Certain other chemicals

**Air Transportation:**

Persons

Property

Facilities

**Communications:**

Telephone services

**Fuel:**

Gasoline

Diesel fuel

Alcohol and alcohol mixtures

Aviation fuel

**Manufacturer's**

Sport fishing equipment

Electric outboard motors &amp; sonar

Bows and arrows

Highway tires

certain vaccines

Gas guzzler cars

Coal

Heavy trucks, trailers, and tractors

Foreign insurance policies

Ship passenger

Highway use on trucks, tractors, and buses

Luxury items

Wagering

Firearms, alcohol, and tobacco

Source: Tax Guide for Small Business - IRS Publication 334

In addition to taxes that the State of Montana requires, some tax incentives are provided to stimulate the implementation of certain programs, development of some types

of industries, and extractions of some natural resources. Table 6-6 lists the business tax incentives currently available in Montana.

<b>TABLE 6-5</b>	
<b>Montana Business Taxes</b>	
<ul style="list-style-type: none"> <li>Aviation Fuel</li> <li>Beer</li> <li>Boiler and Steam Generators</li> <li>Cement &amp; Gypsum Producers</li> <li>Cigarette</li> <li>Coal Severance</li> <li>Consumer Counsel (PSC)</li> <li>Contractor's Gross Receipts</li> <li>Corporation License</li> <li>Diesel Fuel</li> <li>Electrical Energy Producers</li> <li>Freight Line Companies</li> <li>Gambling Taxes</li> <li>Gasoline Distributors</li> <li>Insurance Premium</li> <li>Liquified Petroleum Gas</li> <li>Liquor Excise</li> <li>Liquor License</li> <li>Metal Mines License Tax</li> </ul>	<ul style="list-style-type: none"> <li>Micaceous Mineral Mines</li> <li>Net and Gross Proceeds (mineral extraction)</li> <li>Nursing Facilities Bed Tax</li> <li>Oil or Natural Gas Severance</li> <li>Pari-mutuel Racing</li> <li>Passenger Tramway</li> <li>Public Service Commission (non-transportation)</li> <li>Resource Indemnity and Groundwater Assessment</li> <li>Rural Electric &amp; Telephone Co-operatives</li> <li>Statewide Emergency Telephone System Fee</li> <li>Telephone License Tax</li> <li>Tobacco Products</li> <li>Wine Tax</li> </ul>

Source: Montana Tax Payer's Digest 1991-92

**TABLE 6-6****Montana Business Tax Incentives**

Rural Physician Tax Credit  
 Reduced rate for "New Industry"  
 Abatements for Expanding "value-added" machinery and equipment  
 Abatements for remodeling/reconstruction  
 Reduced rate for machinery and equipment used in canola seed oil processing facilities  
 Exemptions for certain personal property including:  
     oil and gas well "down-hole" equipment  
     certain property used in film production  
     all harness, saddlery and other tack equipment  
     title insurer or agent offices  
     some hand-held tools  
 Exemption for local government business incubators  
 Exemptions for local government or local development corporation industrial parks  
 Abatements for new or expanding industries  
 Reduced assessments for non-producing agricultural and timber processing plants  
 Reduced rate for research and development firms, pollution control equipment, gasohol producing property, and electrolytic reduction equipment  
 Freeport merchandise and business inventories  
 Oil and gas net proceeds exemption for certain wells  
 Reduced severance tax rate for oil and natural gas stripper well production  
 Oil severance tax rate reduction for tertiary oil production  
 Fuel alcohol (gasohol) subsidy

Source: Montana Tax Payer's Digest 1991-92

The "Montana Taxpayers' Digest", published by the Montana Department of Revenue, is a concise and comprehensive book that briefly describes Montana taxes and license, permit, and related fees. There are numerous other fees that apply to certain businesses and activities. The new business owner should obtain a copy of this guide for information regarding all applicable State fees. This digest does not, however, describe

any local taxes and fees. Business owners must contact their local planning department (as described in Chapter 2) to determine any applicable local licenses and/or fees.

## **SOURCES OF INFORMATION**

SBA/Department of Commerce "Start-a-Business Center" checklist -

1. IRS Request Form for tax packet for Sole Proprietor, Partnerships, and Corporations

1424 Ninth Avenue

Helena, MT 59620

Small Business Development Center

Phone (406) 444-4109

(800) 221-8015

FAX (406) 444-2808

Internal Revenue Service

1. Publication 334 - Tax Guide for Small Business
2. Publication 509 - Tax Calendars
3. Publication 583 - Taxpayers Starting a Business
4. Publication 910 - Guide to Free Tax Services
5. Publication 937 - Business Reporting

Federal Building

Helena, MT 59601

Phone (800) 829-1040

Montana Department of Revenue

1. "Montana Taxpayer's Digest"

Income and Miscellaneous Tax Division

Third Floor, Sam W. Mitchell Building

Helena, MT 59620

Phone (406) 444-2837

(800) 332-6103

Local County Assessor's Office

Certified Public Accountant



## **CHAPTER 7**

### **BUSINESS INSURANCE**

#### **INTRODUCTION**

Insurance is designed to help cover losses in the case of unexpected and unplanned for circumstances. Businesses, just like individuals, are exposed to all kind of risks. Awareness of the types of risks that your company is exposed to can help you control and plan for them.

Insurance can cover property, liability, job performance, company management, and company ownership. However, insurance is no substitute for risk management. Every effort to economically eliminate or reduce risk should be taken by the company management. Awareness of risk and awareness of how insurance can protect your company from disastrous loss or how it can allow you to expand your business is an important aspect of business management. It is as important in a new business as it is in an established business.

With all insurance, it is very important to be aware of what is not covered by the policy as well as those things that are covered. All policies have exclusions that list things that are not covered.

Establishing a good working relationship with an insurance agent can be every bit as useful as establishing a relationship with your banker. Both of these individuals can help protect your company, expand your business, and protect your heirs.

## CHECKLIST

- I. Assess your exposure to risk
- II. Purchase business insurance
  - A. Property insurance
  - B. Liability insurance
  - C. Workman's compensation insurance
    - 1. Coverage for independent contractors
- III. Bonding
  - A. Fidelity bonds
  - B. Surety bonds
- IV. Business personnel protection
  - A. Key-Man insurance
  - B. Buy-Sell agreements

## ASSESS YOUR EXPOSURE TO RISK

The first thing you must do is evaluate your exposure to risk - the chance that an event will occur that will cause loss of money to your business. For example, do you have a building that could be destroyed by fire, or can your product cause harm if used improperly? You must also assess what that risk might mean in actual lost dollars and lost income, and what your company can do to eliminate or minimize its potential loss. A seven step process will help you with this evaluation.

- 1 Identify your risks - What events can happen that can cause your business, you, or your employees a financial loss or a potential loss of income? You must consider your chosen business structure and how you personally can be affected. If your business is a sole proprietorship or a partnership, you are personally exposed to losses suffered by your company. If your company is a corporation, you are not personally liable for company losses - however, the corporate

structure doesn't always prevent both the company and its owners, board of directors, or officers from being personally sued.

- 2 **Measure the risks** - What is the monetary loss that can be suffered by each event and what is the likelihood of the event actually occurring? The loss can take the form of additional expenditures for replacement of lost items or information, payment of legal settlements and fees, and interruption of business operations.
- 3 **Control the risks** - What can you do to avoid, eliminate, or minimize the risks? Such things as fire extinguisher, employee training, proper handling of hazardous materials, and maintaining a safe work place can help control risk.
- 4 **Retain some risk** - Is the likelihood of suffering a loss worth the cost of controlling the risk? It may be that, through experience, you decide that the possibility of an event happening (your office window breaking) is so low that if it does happen, you will pay for the loss out of cash (or take out a loan.)
- 5 **Transfer the risk** - Can you move the risk to someone else? Contracting with someone else to perform a job may transfer the risk to the contractor.
- 6 **Self insure** - Can you accurately predict the losses and set aside money to cover the expected losses? This takes experience and careful thought to determine and measure the risk and to translate that into dollars that you can budget and set aside to use when the losses occur. This process requires the discipline to set a budget and to stick with it.
- 7 **Purchase insurance** - As a last step after all the above steps have been addressed, you can purchase insurance from a licensed business insurance agency to cover

your company's potential monetary losses. It is a good idea to compare insurers' coverages and rates.

## **PURCHASE BUSINESS INSURANCE**

The insurance described below can be purchased separately or can be packaged into a "Business Owners' Policy." These packages are offered by most business insurance companies. They can be easily tailored to individual businesses by the insurance agent. These policies will not normally include worker's compensation insurance or surety bonding. The best source of assistance is a competent business insurance agent. Be sure to shop around for an agent that gives good service and has competitive prices. Asking for references and for price quotes for comparison purposes is a normal business practice.

### **Property Insurance**

Property insurance covers real property (buildings) and personal property (equipment, furniture, tenants improvements, and inventory) on the business premise. It usually has limited coverage for any employees' personal property that may be at the business. If any of the covered items, such as equipment, leave the premises (as when a building contractor takes his saws to a job,) a policy addition called a "floater" is usually needed. Coverage protects the business in case of a disaster such as fire or theft.

Items normally covered under property insurance and appropriate policy riders include:

- equipment
- furniture
- any improvements to the premises (such as new carpeting)
- inventory
- computers and media

Items normally not covered under standard policies but which can be included in extended coverage or separate policies are:

- information stored on a computer
- money and securities
- automobiles, boats, planes
- valuable papers

In the case of valuable papers and computer information, the insurance will cover the cost of re-creating the lost information and papers.

Another important type of insurance is called "business interruption insurance." If you have a fire, for example, and it will take some time to rebuild, you have three choices: you can quit and close the business, you can relocate to a temporary location until you rebuild or permanently relocate, or you can suspend doing business until you have rebuilt or permanently relocated. You will be faced with additional expenses for temporary quarters and loss of income if you suspend doing business. You can purchase insurance coverage to compensate you for the additional expense and the loss of income.

Accounts receivable insurance will pay a portion of your outstanding accounts receivable should your records be destroyed and you can't provide proof of purchase to your customer to demand payment. Records are necessary to determine a realistic level of receivables for your company.

## **Liability Insurance**

Liability insurance covers the business and its employees against claims of bodily injury, property damage, and personal injury (slander, libel, false arrest, etc) caused by the business owners' negligence. It is usually based on the premise of the business, but can be extended outside the premise. It excludes coverage of automobiles, boats, and planes. It does not cover intentional damage or injury.

Since liability coverage is based on establishing owners' negligence, many businesses purchase "no fault" medical coverage that will pay for an injury without demanding proof of negligence. This may be important if the company wants to avoid expense and bad will on the part of the injured person while trying to prove negligence so the normal liability insurance will pay for the loss.

Liability insurance also covers against damages from faulty products (the handle on a bag breaks and injures a customer's foot) and from completed operations (a car repair is completed and later the car fails and causes injury to the driver.)

Separate "professional liability" coverage can be purchased by professional persons. These persons offer services based on their professional advice - such as doctors, lawyers, investment counselors, accountants, and consultants. Mal-practice and "errors and omissions" are covered by professional liability.

Automobile liability insurance is needed if you or your employees are driving a company car. If an employee is driving his own car, "non-owned" auto liability may be needed to cover the company if an accident occurs during business use - the victim may

sue the driver and the company.

### **Workman's Compensation Insurance**

Other liability coverage that is required includes workman's compensation insurance, discussed in Chapter 5. The minimum limits of coverage are mandated by the State of Montana. Insurance purchased from the State Fund meets these mandates. However, the company does have the option of purchasing workman's compensation from private insurers. In most cases, private insurance is much more expensive than the State Fund. There are some cases where coverage for certain types of jobs may be less expensive. One other reason for purchasing from a private insurer is when the company wishes to obtain more extensive coverage than is available from the State Fund. This coverage, called "stop gap," covers the gap between mandated coverage and the desired level of employer's liability.

### **Independent contractors**

A very important consideration is workman's compensation coverage for independent contractors. Montana requires workman's compensation for every worker unless they are exempted by the state. Exemptions for sole proprietors, partners, and corporate officers were discussed in Chapter 5. However, if an independent contractor working for you is injured and he has no exemption or insurance, Montana may hold

your company liable. To insure your company against claims involving independent contractors, you should demand proof of insurance or proof of exemption (State Fund forms LF805 or LF840A described in Chapter 5) from the contractor. If the proof can't be supplied, you can either hire another contractor or cover them under your company's policy. If you cover them under your policy, contact your insurer and have them added to your coverage.

## **BONDS**

Bonds are money set aside to guarantee the performance of a job. In order to receive a contract to do a job, a company may be required to post a bond. The company can either put cash equal to the required bond amount in a fund or they can purchase a bond from an insurance company. The price that an insurance company will charge will vary with the type of bond needed.

Insurance companies will only sell the company a bond if the company has the financial resources to pay the insurance company back the entire amount of the bond if the job is not performed. This means that a company must have significant financial resources in order to purchase a bond. Insurance companies normally require that the company purchasing the bond have financial statements that have been reviewed by a CPA.

A new company usually doesn't have the resources to purchase a bond. The Small Business Administration has a program to insure bonds for small companies. This



program is similar to the SBA guaranteed loan program. By having the SBA guarantee the bond, new companies can obtain bonds and can bid for jobs that require large bonds. The SBA or your insurance agent can provide information of the SBA Surety Bond Guarantee program.

There are two types of bonds that may be needed by a business, fidelity bonds and surety bonds.

### **Fidelity bonds**

Fidelity bonds cover losses from employee theft from your company or employee theft from your customers. Proof of theft must be supplied before the insurance will pay the loss. Many purchasers of services, such as janitorial services may require the service provider to provide fidelity bonds for their employees. Cost for fewer than 6 employees is about \$75 per year for a \$10,000 bond. Companies with more employees will pay about \$5 for each additional employee.

### **Surety bonds**

Surety bonds are required by customers to assure the satisfactory completion of a job. Should the job contractor fail to complete the job, the bond will pay another contractor to complete the work. The Bond provides a fixed amount of money that will be available in such a circumstance.

License bonds are a form of surety bonds and are required whenever a company collects and holds government tax revenues. Examples are gasoline dealers who collect state and federal excise tax from the person who fills up their automobiles gas tank, and sporting goods stores that sell Montana hunting and fishing licenses. Montana requires a license bond for these businesses. The cost of license bonds normally won't exceed \$100. They are usually written for a fixed period of time, such as three years. The State agency that administers the business licenses (described in Chapter 3) will have information on any required license bonds.

Performance bonds are required for the duration of a specific job and will be described in the specifications for the job. Building contractors are usually faced with providing performance bonds for building projects. Performance bonds will cost between \$20 and \$25 per thousand dollars of bond requirement (for example, a \$100,000 bond will cost between \$2,000 and \$2,500.)

A company's ability to purchase bonds will be limited by their amount of current assets less their current liabilities. Bonding capacity is usually ten times that amount. For example, the following company's current financial situation is:

<b>Current Assets:</b>		<b>Current Liabilities</b>	
Cash	5,000	Accounts payable	12,000
Accounts Receivable	35,000	Short term loan	4,000
Inventory	7,500		
	-----		-----
<b>Total</b>	<b>47,500</b>	<b>Total</b>	<b>16,000</b>

Their bonding capacity would be \$315,000 ( $47,500 - 16,000 = 31,500 \times 10$ ). New businesses will need to use the SBA Surety Bond Guarantee program until their financial condition allows for sufficient bonding capacity.

## **BUSINESS PERSONNEL INSURANCE**

### **Key-man insurance**

Most small businesses are dependent on key individuals in their management and ownership structure. If one of those key people should become disabled or die, the business would be in serious trouble. Key-man insurance is a life and/or disability insurance policy on those important to the continuation of the business. A policy owned by the company and naming the company as the designated beneficiary, will provide funds to replace that individual or to find alternative management options. One of those options is to sell the business, and the insurance payoff will increase the value of the business. Most small businesses have some kind of key-man coverage.

### **Buy-sell agreements**

Most buy-sell agreements between business owners (as described in Chapter 1) will make use of life insurance to finance the purchase of the deceased owners share of the business. Policies are written on each owner with the non-insured owner(s) designated as the beneficiary and policy owner. Each owner will have a policy on each

of the other owners. In this way, if any of the owners die, the life policy will pay for the buy-out of his ownership share by the surviving owners. In the case of a corporation, the corporation may own the policy and be the beneficiary, thus allowing the corporation to buy the deceased owner's shares of stock.

## **SOURCES OF INFORMATION**

Montana State Auditor's Office  
Montana Insurance Commissioner  
Room 270, Sam W. Mitchell Building  
Helena, MT 59620  
Phone (406) 444-2040  
(800) 332-6148

Montana Department of Commerce - "Business Licensing Handbook"  
1424 Ninth Avenue  
Helena, MT 59620  
Business Licensing Center  
Phone (406) 444-4109  
(800) 221-8015  
FAX (406) 444-2808

Small Business Administration - Surety Bond Guarantee program  
Federal Building  
Helena, MT 59601  
Phone (406) 449-5381

Insurance agents  
Attorneys experienced in your type of business  
Accountants experienced in your type of business

## **APPENDIX A**

### **SAMPLE FORMS**

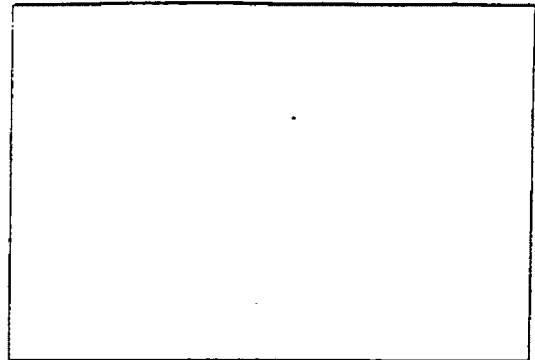
# 1-1 ABN23 Application for Assumed Business Name

ABN 23-Rev. 12/88

(For use by the Secretary of State only)

Prepare, execute and submit one original and one copy with a fee of \$15.00

TO: MIKE COONEY  
Secretary of State  
State Capitol  
Helena, MT 59620



Filing Fee: \$15.00

## STATE OF MONTANA APPLICATION FOR REGISTRATION OF ASSUMED BUSINESS NAME

For the purpose of registering an Assumed Business Name in the State of Montana for a period of five years, according to 30-13-203, M.C.A., the undersigned submits the following statements of fact to the Secretary of State:

- 1. The Assumed Business Name to be registered: MONTANA STITCHERY, INC.
- 2. The description of the business to be transacted under the Assumed Business Name: Manufacturer of nylon and leather bags
- 3. The date of first use, in commerce, of the Assumed Business Name (Note: The name must be used in Montana before it can be registered.): June 1, 1992
- 4. The name of the Montana county or counties in which business is presently being transacted: Silver Bow

5. The name of the applicant: Tim Leader

The address of the applicant (including street and number):

1st W. Pine  
Central City, Montana

6. The applicant is (check one and complete where appropriate):

- An Individual
- A Partnership, and the names and addresses of the partners are:
  - 1. \_\_\_\_\_
  - 2. \_\_\_\_\_
  - 3. \_\_\_\_\_
  - 4. \_\_\_\_\_

(Attach an additional sheet, if needed)

A Corporation organized and existing under the laws of the State of Montana

An Association (Attach list of names and addresses of members)

Date of Application: June 2, 1992

(Complete appropriate affidavit on reverse side and submit one original and one copy.)

COMPLETE THE ONE AFFIDAVIT THAT IS APPROPRIATE.

- Affidavit if applicant is a corporation, partnership, or association.

I, Tim Leader, being first duly sworn  
(Name of Officer making affidavit)  
 depose and say that I am President, of  
(President, Vice President or Secretary or a Partner)  
Montana Stitchery Inc., the applicant  
(Complete Name of Applicant)  
 herein, and make this affidavit in its behalf; that I have read the foregoing application; that the facts set out therein are true; and the execution of this document constitutes an affirmation, under the penalty of false swearing.

X Tim Leader  
(Signature)

PLEASE NOTE: The name to be registered can't include the words "corporation", "company", "incorporated", or "limited" or an abbreviation of one of these except when the applicant is a corporation.

\*\*\*

- Affidavit if applicant is an individual.

I, \_\_\_\_\_, being first duly sworn  
(Name of Applicant)  
 depose and say that I am the applicant herein (doing business as \_\_\_\_\_);  
 that I have read the foregoing application; that the facts set out therein are true; and the execution of this document constitutes an affirmation, under the penalty of false swearing.

X \_\_\_\_\_  
(Signature)

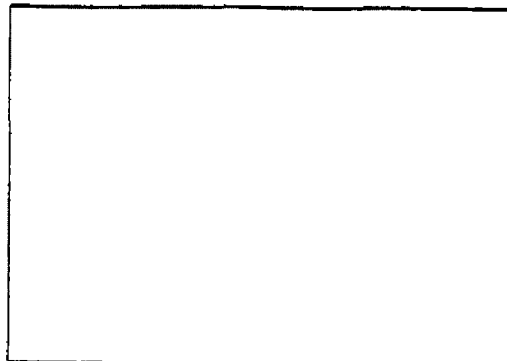
PLEASE NOTE: The name to be registered can't include the words "corporation", "company", "incorporated", or "limited" or an abbreviation of one of these except when the applicant is a corporation.

## 1-2 C-5 Application for Reservation of Corporate Name

C-5—Rev. 12/91

(For use by the Secretary of State only)

**TO: MIKE COONEY**  
 Secretary of State  
 State Capitol  
 Helena, MT 59620



Filing Fee: \$10.00

### STATE OF MONTANA APPLICATION FOR RESERVATION OF CORPORATE NAME

For the purpose of reserving a corporate name in the State of Montana for a period of 120 days, according to the provisions of 35-1-309 or 35-2-306, MCA, the undersigned submits the following statements of fact to the Secretary of State:

1. The corporate name to be reserved is \_\_\_\_\_

Montana Stitchery, Inc.

For a profit corporation, the name must contain the word "corporation", "company", "incorporated", "limited", or an abbreviation of such.

2. The name of the applicant is \_\_\_\_\_

Tim leader

and the address of the applicant's business office is

14 W Pine  
(street number) (street)

Central City MT 59414  
(city or town) (state) (zip code)

3. A brief description of the business or affairs in which the corporation intends to engage is \_\_\_\_\_

Manufacture  
of nylon and leather bags

4. The applicant is (indicate which)

- A person intending to organize a domestic corporation.
- A domestic corporation intending to change its name.
- A foreign corporation intending to make application for a certificate of authority to transact business or conduct affairs in Montana.
- A foreign corporation authorized to transact business in Montana and intending to change its name.
- A person intending to organize a foreign corporation and intending to have such corporation make application for a certificate of authority to transact business in Montana.

Dated April 14, 1992

Tim leader  
(signature of applicant)

\_\_\_\_\_  
(signature of officer or chairman of board)

\_\_\_\_\_  
(title)

\_\_\_\_\_  
(printed name of individual signing)

Send an additional \$5 if a formal certificate is desired.



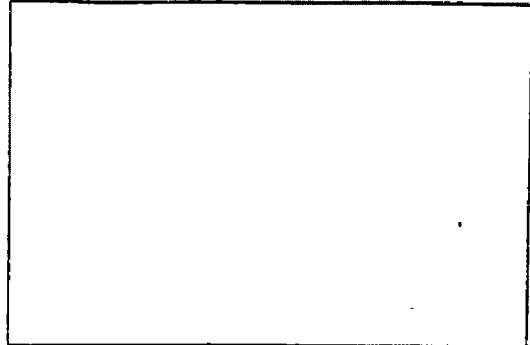
# 1-3 FC4 Application for Certificate of Authority of Foreign Corporation

FC4-Rev. 12/91

(For use by the Secretary of State only)

Prepare, execute and submit in one original and one copy.

TO: MIKE COONEY  
Secretary of State  
State Capitol  
Helena, MT 59620



## STATE OF MONTANA APPLICATION FOR CERTIFICATE OF AUTHORITY OF FOREIGN CORPORATION

### FEES:

Filing Application for Certificate of Authority  
Profit Corporation ..... \$120  
Nonprofit Corporation ..... \$ 20  
For the purpose of procuring a certificate of authority to transact business or conduct affairs in the State of Montana, according to 35-1-1023, MCA, (profit) or 35-2-822, MCA, (nonprofit), the undersigned submits the following statements of fact to the Secretary of State, and attaches a Certificate of Existence DULY CERTIFIED AND ISSUED UNDER A CURRENT DATE BY THE SECRETARY OF STATE of the State of its jurisdiction with the Great Seal affixed.

### Part I. (To be completed by all corporations.)

- The name of the corporation is \_\_\_\_\_  
and if its name is not available it adopts to be known in Montana as \_\_\_\_\_  
(The corporate name must contain the word "corporation", "company", "incorporated", "limited", or an abbreviation of such. Add the word the corporation elects to use in Montana. This applies only to profit corporations.)
- It is incorporated under the laws of \_\_\_\_\_
- The date of its incorporation is \_\_\_\_\_  
and the period of its duration is \_\_\_\_\_
- The street address of its principal office in the state, territory, country or other jurisdiction under the laws of which it is incorporated is  
\_\_\_\_\_  
(street number) (street)  
\_\_\_\_\_  
(city or town) (state) (zip code)
- As required by Montana law, the address of its proposed registered office in Montana is (does not need to be the same as its place of business)  
\_\_\_\_\_  
(number) (street) (box number)  
\_\_\_\_\_  
(city or town) Montana (zip code)  
and the name of its proposed registered agent in Montana at such address is \_\_\_\_\_

6. The names and respective business addresses of its current directors and officers are (attach list if not complete):

- \_\_\_\_\_ Director
- \_\_\_\_\_
- \_\_\_\_\_ Director
- \_\_\_\_\_
- \_\_\_\_\_ Director
- \_\_\_\_\_
- \_\_\_\_\_ President
- \_\_\_\_\_
- \_\_\_\_\_ Vice-President
- \_\_\_\_\_
- \_\_\_\_\_ Secretary
- \_\_\_\_\_
- \_\_\_\_\_ Treasurer
- \_\_\_\_\_

(over)

7. The purpose or purposes which it proposes to pursue in transacting business or conducting affairs in Montana are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**WARNING**  
"PENALTIES IMPOSED UPON OFFICERS AND DIRECTORS. The execution of any document required to be filed with the Secretary of State constitutes an affirmation, under penalties of false swearing, by each person executing the document that the facts stated therein are true." (Section 35-1-428, MCA)

**Part II. (To be completed only by nonprofit corporations.)**

8. This nonprofit corporation

- has members
- has no members

9. This nonprofit corporation is a

- Public Benefit Corporation
- Mutual Benefit Corporation
- Religious Corporation

\_\_\_\_\_  
*(exact name of corporation)*

By \_\_\_\_\_  
*(signature of officer or chairman of board)*

\_\_\_\_\_  
*(title)*

\_\_\_\_\_  
*(printed name of individual signer)*

**Part III. (To be completed by all corporations.)**

10. It commenced or plans to commence transacting business in Montana on \_\_\_\_\_, 19\_\_\_\_\_.

Dated: \_\_\_\_\_, 19\_\_\_\_\_.

# 1-4 SS4 Application for Employer Identification Number

Form **SS-4** Application for Employer Identification Number  
 (Rev. August 1989) Department of the Treasury Internal Revenue Service  
 (For use by employers and others. Please read the attached instructions before completing this form.) Please type or print clearly.  
 EIN \_\_\_\_\_ OMB No. 1545-0003 Expires 7-31-91

1 Name of applicant (True legal name) (See instructions.)  
Montana Stitchery, Inc.

2 Trade name of business, if different from name in line 1:  
 \_\_\_\_\_

3 Executor, trustee, or name  
TIM J. LEADER

4a Mailing address (street address) (room, apt., or suite no.)  
4 West Pine

5a Address of business (See instructions.)  
100 MAIN STREET

4b City, state, and ZIP code  
Central City MT 59414

5b City, state, and ZIP code  
Central City MT 59414

6 County and state where principal business is located  
Silver-Bow Montana

7 Name of principal officer, grantor, or general partner (See instructions.) ▶ TIM J. LEADER

8a Type of entity (Check only one box.) (See instructions.)

<input type="checkbox"/> Individual SSN _____	<input type="checkbox"/> Estate	<input type="checkbox"/> Trust
<input type="checkbox"/> REMIC	<input type="checkbox"/> Plan administrator SSN _____	<input type="checkbox"/> Partnership
<input type="checkbox"/> State/local government	<input checked="" type="checkbox"/> Other corporation (specify) <u>Manufacturer</u>	<input type="checkbox"/> Farmers' cooperative
<input type="checkbox"/> Other nonprofit organization (specify) _____	<input type="checkbox"/> Federal government/military	<input type="checkbox"/> Church or church controlled organization
<input type="checkbox"/> Other (specify) ▶ _____	If nonprofit organization enter GEN (if applicable)	

8b If a corporation, give name or foreign country (if applicable) or state in the U.S. where incorporated ▶ Foreign country \_\_\_\_\_ State Montana

9 Reason for applying (Check only one box)

<input checked="" type="checkbox"/> Started new business	<input type="checkbox"/> Changed type of organization (specify) ▶ _____
<input type="checkbox"/> Hired employees	<input type="checkbox"/> Purchased going business
<input type="checkbox"/> Created a pension plan (specify type) ▶ _____	<input type="checkbox"/> Created a trust (specify) ▶ _____
<input type="checkbox"/> Banking purpose (specify) ▶ _____	<input type="checkbox"/> Other (specify) ▶ _____

10 Date business started or acquired (Mo., day, year) (See instructions.)  
June 1 1992

11 Enter closing month or accounting year. (See instructions.)  
December

12 First date wages or annuities were paid or will be paid (Mo., day, year). Note: if applicant is a withholding agent, enter date income will first be paid to nonresident alien. (Mo., day, year).  
 \_\_\_\_\_ ▶ July 1 1992

13 Enter highest number of employees expected in the next 12 months. Note: if the applicant does not expect to have any employees during the period, enter "0."  
 Nonagricultural Agricultural Household  
 \_\_\_\_\_ ▶ 3

14 Does the applicant operate more than one place of business?  Yes  No  
 If "Yes," enter name of business. ▶ \_\_\_\_\_

15 Principal activity or service (See instructions.) ▶ Manufacturer of Shoes

16 Is the principal business activity manufacturing?  Yes  No  
 If "Yes," principal product and raw material used ▶ nylon fabric and leather

17 To whom are most of the products or services sold? Please check the appropriate box.  
 Public (retail)  Other (specify) ▶ \_\_\_\_\_  Business (wholesale)  N/A

18a Has the applicant ever applied for an identification number for this or any other business?  Yes  No  
 Note: If "Yes," please complete lines 13b and 18c.

18b If you checked the "Yes" box in line 18a, give applicant's true name and trade name, if different than name shown on prior application.  
 True name ▶ \_\_\_\_\_ Trade name ▶ \_\_\_\_\_

18c Enter approximate date, city, and state where the application was filed and the previous employer identification number if known.  
 Approximate date when filed (Mo., day, year) \_\_\_\_\_ City and state where filed \_\_\_\_\_ Previous EIN \_\_\_\_\_

Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, it is true, correct, and complete.

Name and title (Please type or print clearly.) ▶ Tim L. Leader, President Telephone number (include area code) (406) 411-1234

Signature ▶ Tim L. Leader Date ▶ June 1 1992

Please leave blank ▶ Geo. \_\_\_\_\_ Ind. \_\_\_\_\_ Class \_\_\_\_\_ Size \_\_\_\_\_ Reason for applying \_\_\_\_\_

For Paperwork Reduction Act Notice, see attached instructions. U.S. GOVERNMENT PRINTING OFFICE: 1989-162-517/0103 Form SS-4 Rev. 3-89

# 1-5 2553 Election by a Small Business Corporation

Form **2553**  
(Rev. December 1990)  
Department of the Treasury  
Internal Revenue Service

**Election by a Small Business Corporation**  
(Under section 1362 of the Internal Revenue Code)  
▶ For Paperwork Reduction Act Notice, see page I of instructions.  
▶ See separate instructions.

OMB No. 1545-0146  
Expires 11-30-93

Notes: 1. This election, to be treated as an "S corporation," can be accepted only if all the tests in General Instruction B are met; all signatures in Parts I and III are originals (no photocopies); and the exact name and address of the corporation and other required form information are provided.  
2. Do not file Form 1120S until you are notified that your election is accepted. See General Instruction E.

Part I Election Information	
Name of corporation (see instructions) <i>Montana Stitches, Inc</i>	A Employer identification number (see instructions) <i>89-4361111</i>
Number, street, and room or suite no. (if a P.O. box, see instructions.) <i>100 Main Street</i>	B Name and telephone number (including area code) of corporate officer or legal representative who may be called for information <i>(406) 411-1234</i>
City or town, state, and ZIP code <i>Central City, MT 59414</i>	C Election is to be effective for tax year beginning (month, day, year) <i>7/1/92</i>
D Is the corporation the outgrowth or continuation of any form of predecessor? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "Yes," state name of predecessor, type of organization, and period of its existence ▶	
E Date of incorporation <i>June 1, 1992</i>	
F Check here <input type="checkbox"/> if the corporation has changed its name or address since applying for the employer identification number shown in item A above.	
G State of incorporation <i>Montana</i>	
H If this election takes effect for the first tax year the corporation exists, enter month, day, and year of the earliest of the following: (1) date the corporation first had shareholders, (2) date the corporation first had assets, or (3) date the corporation began doing business. ▶ <i>June 1, 1992</i>	
I Selected tax year: Annual return will be filed for tax year ending (month and day) ▶ <i>December 31</i> If the tax year ends on any date other than December 31, except for an automatic 52-53-week tax year ending with reference to the month of December, you must complete Part II on the back, if the date you enter is the ending date of an automatic 52-53-week tax year, write "52-53-week year" to the right of the date. See Temporary Regulations section 1.441-2T(e)(3).	

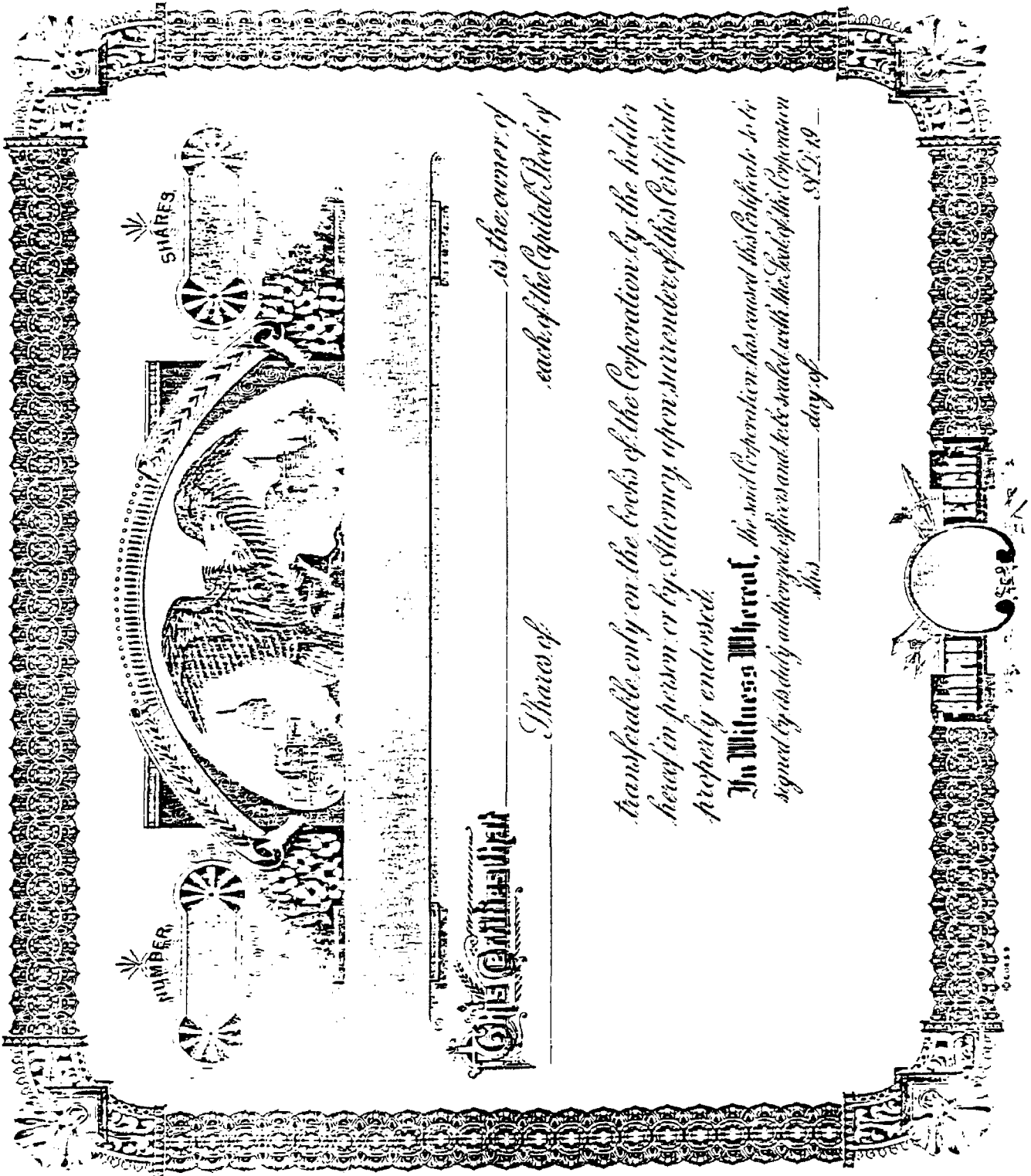
J Name of each shareholder, person having a community property interest in the corporation's stock, and each tenant in common, joint tenant, and tenant by the entirety. (A husband and wife (and their estates) are counted as one shareholder in determining the number of shareholders without regard to the manner in which the stock is owned.)	K Shareholders' Consent Statement. We, the undersigned shareholders, consent to the corporation's election to be treated as an "S corporation" under section 1362(a). (Shareholders sign and date below.)		L Stock owned		M Social security number or employer identification number (see instructions)	N Shareholder's tax year ends (month and day)
			Number of shares	Dates acquired		
<i>Tim Leader</i>	<i>Tim Leader</i>	<i>6/15/92</i>	<i>2000</i>	<i>6/1/92</i>	<i>555-14-1414</i>	<i>12/31</i>
<i>Jeff Workman</i>	<i>Jeff Workman</i>	<i>6/15/92</i>	<i>2000</i>	<i>6/1/92</i>	<i>555-99-1111</i>	<i>12/31</i>
<i>D.N. Vetter</i>	<i>D.N. Vetter</i>	<i>6/15/92</i>	<i>5000</i>	<i>6/1/92</i>	<i>444-16-2222</i>	<i>12/31</i>

\*For this election to be valid, the consent of each shareholder, person having a community property interest in the corporation's stock, and each tenant in common, joint tenant, and tenant by the entirety must either appear above or be attached to this form. (See instructions for Column K if continuation sheet or a separate consent statement is needed.)


Under penalties of perjury, I declare that I have examined this election, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.


Signature of officer ▶ *Tim Leader* Title ▶ *President* Date ▶ *6/15/92*

### 1-6 Stock Certificate




NUMBER






SHARES




---



\_\_\_\_\_ Shares of \_\_\_\_\_ is the owner of \_\_\_\_\_ each of the Capital Stock of \_\_\_\_\_

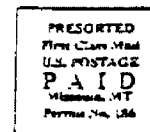
*transferable only on the books of the Corporation by the holder hereof in person or by Attorney upon surrender of this Certificate properly endorsed.*

**In Witness Whereof,** the said Corporation has caused this Certificate to be signed by its duly authorized officer and to be sealed with the Seal of the Corporation this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_



## 2-1 Business License Application - Missoula

EDWARD A. CHILDERS, CITY TREASURER  
 CITY OF MISSOULA  
 435 RYMAN ST.  
 MISSOULA, MONTANA 59802-4297  
 YOUR CITY BUSINESS LICENSE IS NOW DUE  
 AND PAYABLE FOR NEXT LICENSE YEAR SEE  
 REVERSE FOR FEE.



LICENSES EXPIRE LAST DAY OF FEBRUARY. TO:  
 AFTER APRIL 1, ADD 25% PENALTY.  
 AFTER MAY 1, ADD 50% PENALTY.  
 AFTER JUNE 1, ADD 100% PENALTY.

PLEASE COMPLETE AND RETURN WITH  
 YOUR REMITTANCE. YOUR LICENSE  
 WILL BE MAILED TO YOU.

THANK YOU,  
 ED CHILDERS  
 CITY TREASURER

IT IS A MISDEMEANOR TO DO BUSINESS WITH-  
 OUT A CITY LICENSE AND ANY PERSON SO  
 DOING IS LIABLE TO ARREST AND FINE FOR  
 EACH OFFENSE.

**NOTE:**  
 PLEASE RETURN THIS  
 CARD WITH YOUR  
 REMITTANCE.

\* **EMPLOYEE:** Person  
 employed by business,  
 including owners, man-  
 agers, active partners,  
 and agents. All persons  
 hired by, or working  
 for, the business.

In case of part-time  
 employees, the number of  
 fulltime equivalent  
 employees will be deter-  
 mined by dividing the  
 total number of hours  
 worked by all part-time  
 employees by 2080.

MAKE CHECKS PAYABLE TO:  
 CITY OF MISSOULA

YOUR CITY BUSINESS LICENSE IS DETERMINED BY THE NUMBER OF EMPLOYEES ON PAYROLL AS OF MAY 1.			
FEE	\$5.00 PER EMPLOYEE	MINIMUM \$20.00	MAXIMUM \$400.00
NUMBER OF EMPLOYEES	5	@ \$5.00 = 5	25.00
MINIMUMS WITH OTHER FEES ARE \$20.00 - \$400.00			
1 APARTMENT UNITS - \$5.00 PER UNIT - MINIMUM \$20.00 - MAXIMUM \$400.00			
NUMBER OF APARTMENT UNITS		@ \$5.00 = 5	
2 TRAILER COURT HOOKUPS - \$3.00 PER HOOKUP MOBILE HOME PARK HOOKUPS - MINIMUM \$20.00 - MAXIMUM \$400.00			
NUMBER OF HOOKUPS		@ \$5.00 = 5	
3 RENTAL OF OFFICE OR RETAIL SPACE 1/2 OF 1¢ PER SQUARE FOOT - MINIMUM \$20.00 - MAXIMUM \$400.00			
SQUARE FOOTAGE	900	@ 1/2 OF 1¢ PER SQ. FT. = 5	9.00
4 RENTAL OF WAREHOUSE OR WHOLESALE SPACE 1/4 OF 1¢ PER SQUARE FOOT - MINIMUM \$20.00 - MAXIMUM \$400.00			
SQUARE FOOTAGE		@ 1/4 OF 1¢ PER SQ. FT. = 5	

CITY OF MISSOULA - BUSINESS LICENSE APPLICATION

BUSINESS NAME Montana Stitches, Inc.  
 BUSINESS ADDRESS 100 MAIN STREET  
 MAILING ADDRESS 100 MAIN STREET ZIP 59601  
 OWNER'S NAME LIA LEADER  
 MANAGER'S NAME TIM LEADER  
 OWNER OF BUILDING RE. Management, Inc. ADDRESS 1453 CENTRAL  
 PHONE (406) 411-3421 (406) 911-1234  
 PURCHASE DATE OR OPENING DATE 6/1/92 NUMBER OF FULL TIME PLUS P.T.E. EMPLOYEES 5  
 NATURE OF BUSINESS Manufacturing bags  
 APPLICANT'S SIGNATURE [Signature] DATE 6/1/92

INDIVIDUAL  PARTNERSHIP  CORPORATION  
 NUMBER OF APARTMENTS \_\_\_\_\_  
 NUMBER OF MOBILE HOME MODELS \_\_\_\_\_  
 SPACE RETAIL \_\_\_\_\_  
 SETBACK SQUARE FEET \_\_\_\_\_  
 WHOLESALE SQUARE FEET \_\_\_\_\_  
 \*LUMBER/DOES (AOD 100) ASSOCIATION FFD \_\_\_\_\_  
 OWNER'S ADDRESS 100 MAIN  
 MANAGER'S ADDRESS 1453 CENTRAL  
 PHONE # 411-9491  
 EMERGENCY CONTACT Sam OTHER \_\_\_\_\_  
 HOME OFFICE \_\_\_\_\_  
 ADDRESS \_\_\_\_\_

Please complete this application, have it signed off by the officials indicated on the reverse side, and return it with payment to the Missoula City Treasurer's Office. Thank you.  
 Edward A. Childers, City Treasurer

COMPLETION BY CITY OFFICIALS:

OFFICIAL SIGNATURE:	DATE	REMARKS:
Fire Inspector		
Police Inspector		
Health Inspector		
Excavation Inspector		
Building Inspector		
Electrical Inspector		
Zoning Officer		
Other (Designate)		

**2-2 Business License Application - Butte-Silver Bow**

**BUTTE SILVER BOW**

Receipts Division

Butte Silver Bow County Court House

155 West Granite Street - telephone 406-723-8262

Please fill out this Application. The Butte Silver Bow Code requires every business to have a General Business License. Regardless of the need for other licenses, this Application must be completed in its entirety before any consideration for a license will be given.

**APPLICANT**

Name

Tim LEADER

Street Address

14 West Pine  
Central City, MT 59414

Phone

(406) 411-1234

**BUSINESS**

Name

Montana Stitchery, Inc.

Street Address

100 Main Street  
Central City, MT 59414

Phone

(406) 411-3421

**Detail Nature of Business Conducted at This Site:**

Manufacturer of nylon bags and leather bags

Number of Employees (owners, managers, part-time personnel) 5

If Applicable: Number of Trailer Sites N/A

Signature of Applicant Tim Leader

Date of Application 6/15/92

**For Office Use Only**

Occupancy Permit Number \_\_\_\_\_

License Number Issued \_\_\_\_\_

Zoning Approval \_\_\_\_\_

Building Code Approval \_\_\_\_\_

Remarks \_\_\_\_\_

Revised 1/92 PGE



## 4-1 Business Loan Application - Bank



NORWEST BANK AMACORDA-BUITE, N.A.  
BUSINESS LOAN APPLICATION

APPLICANT (Business Trade Name) \_\_\_\_\_ Date \_\_\_\_\_  
 ADDRESS \_\_\_\_\_ Phone Number \_\_\_\_\_  
 TYPE OF BUSINESS \_\_\_\_\_ Date established \_\_\_\_\_

Form of Organization  Proprietorship  Partnership  Corporation

**OWNERS/PARTNERS/OFFICERS**

Name	% Ownership	Annual Compensation	Life Insurance
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____

AMOUNT OF LOAN/LINE REQUESTED: \$ \_\_\_\_\_

PURPOSE OF THE LOAN/LINE: (Explain in detail) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

PRIMARY SOURCE OF REPAYMENT: \_\_\_\_\_

SECONDARY SOURCE OF REPAYMENT: \_\_\_\_\_

REQUESTED TERMS OF REPAYMENT: \_\_\_\_\_

COLLATERAL OFFERED:	ESTIMATED VALUE
_____	\$ _____
_____	\$ _____
_____	\$ _____

IF YOU ARE CURRENTLY A NORWEST BANK CUSTOMER PLEASE INDICATE:

CHECKING  Business  Personal      SAVINGS  Business  Personal      LOANS  Business  Personal

ARE YOU OR YOUR COMPANY CURRENTLY INVOLVED IN ANY LAWSUITS? \_\_\_\_\_

HAVE YOU OR YOUR COMPANY EVER DECLARED BANKRUPTCY? \_\_\_\_\_

DOES YOUR COMPANY BORROW FROM OTHER BANKS? \_\_\_\_\_ Where? \_\_\_\_\_

**PROFESSIONAL ADVISORS:**

ACCOUNTANT (Name, address and phone) \_\_\_\_\_

LAWYER (Name, address and phone) \_\_\_\_\_

INSURANCE AGENT (Name, address and phone) \_\_\_\_\_

The undersigned certifies that the information contained on this form is true and correct.

Applicant \_\_\_\_\_  
 By: \_\_\_\_\_ Date \_\_\_\_\_

NEW APPLICANTS SEE REVERSE SIDE

### 4-2 Personal Financial Statement - Bank



### Personal Financial Statement

To: \_\_\_\_\_

*If I have any questions regarding the completion of this form, I should contact my representative at the bank.*

*I may apply for a credit extension, loan or other financial accommodation alone or together with someone else. ("co-applicant"). If I apply with a co-applicant and our combined assets and debts can meaningfully and fairly be presented together, the co-applicant and I may complete this required statement and any supporting schedules jointly. Otherwise, separate forms and schedules are required.*

**APPLICANT**

Name \_\_\_\_\_ Social Security number \_\_\_\_\_

Address \_\_\_\_\_

Telephone number \_\_\_\_\_ Date of birth \_\_\_\_\_

Present employer \_\_\_\_\_ Position \_\_\_\_\_

Address \_\_\_\_\_

Business phone \_\_\_\_\_ Loan purpose \_\_\_\_\_

**CO-APPLICANT**

Name \_\_\_\_\_ Social Security number \_\_\_\_\_

Address \_\_\_\_\_

Telephone number \_\_\_\_\_ Date of birth \_\_\_\_\_

Present employer \_\_\_\_\_ Position \_\_\_\_\_

Address \_\_\_\_\_

Business phone \_\_\_\_\_ Loan purpose \_\_\_\_\_

Date of valuation \_\_\_\_\_ ● Round all amounts to the nearest \$100  
 ● Attach separate sheet if you need more space to complete detail schedule

Assets (assets you own)	Amount	Liabilities (debts you owe)	Amount
Cash in this bank: Checking		Loans payable to banks (schedule 7)	
Savings		Loans payable to others (schedule 7)	
C.D.s		Installment contracts payable (schedule 7)	
IRA		Amounts due to dept. stores and others	
Cash in other banks		Credit cards (MasterCard, Visa & others)	
Due from friends, relatives and others (schedule 1)		Income taxes payable	
Mortgage and contracts for deed owned (schedule 3)		Other taxes payable	
Securities owned (schedule 3)			
Cash surrender value of life insurance (schedule 4)		Life insurance (schedule 4)	
Homestead (schedule 5)			
Other real estate owned (schedule 5)		Mortgage on homestead (schedule 6)	
Automobiles (year, make, model)		Mortgage or liens on other real estate owned (schedule 6)	
Personal property		Contracts for deed (schedule 5)	
Other assets (detail)		Other liabilities (detail)	
		<b>TOTAL LIABILITIES</b>	
		NET WORTH (total assets less total liabilities)	
<b>TOTAL</b>		<b>TOTAL</b>	

Annual income	Applicant	Co-applicant	Contingent liabilities	Amount
Salary			As endorser	
Commissions			As grantor	
Dividends			Lawsuits	
Interest			For taxes	
Rentals			Other detail	
Alimony, child support or maintenance (you need not show this unless you wish us to consider it).				
Other			<input type="checkbox"/> Check here if "none"	
<b>TOTAL INCOME</b>			<b>TOTAL CONTINGENT LIABILITIES</b>	

**SCHEDULE 1 DUE FROM FRIENDS, RELATIVES AND OTHERS**

Name of debtor	Owed to	Collateral	How payable	Maturity date	Unpaid balance
			\$ per		
			\$ per		
			\$ per		
<b>TOTAL</b>					

**SCHEDULE 2 MORTGAGE AND CONTRACTS FOR DEED OWNED**

Name of debtor	Type of property	1st or 2nd lien	Owed to	How payable	Unpaid balance
			\$ per		
			\$ per		
			\$ per		
			\$ per		
<b>TOTAL</b>					

**SCHEDULE 3 SECURITIES OWNED**

No. shares or Bond amount	Description	In whose name(s) registered	Cost	Present Market value	Listed Un-listed
TOTAL:					

**SCHEDULE 4 LIFE INSURANCE**

Insured	Insurance company	Beneficiaries	Face value of policy	Cash value	Loans
TOTAL:					

**SCHEDULE 5 REAL ESTATE**

Address and type of property	Title in name(s) of	Monthly Income	Cost Year acquired	Present Market value	Amount of Insurance
Homestead			\$ Year		
			\$ Year		
			\$ Year		
			\$ Year		
			\$ Year		
			\$ Year		
			\$ Year		
			\$ Year		

**SCHEDULE 6 MORTGAGES OR LIENS ON REAL ESTATE**

To whom payable	How payable	Interest Rate	Maturity Date	Unpaid Balance
Homestead	\$ per			
	\$ per			
	\$ per			
	\$ per			
	\$ per			

**SCHEDULE 7 LOANS PAYABLE TO BANKS & OTHERS AND INSTALLMENT CONTRACTS PAYABLE**

To whom payable	Address	Collateral or Unsecured	How payable	Maturity Date	Unpaid Balance
			\$ per		
			\$ per		
			\$ per		
			\$ per		
			\$ per		
			\$ per		
			\$ per		
			\$ per		

	APPLICANT	CO-APPLICANT
Have I ever gone through bankruptcy or had a judgment against me?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are any assets pledged or debts secured except as shown?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have I made a will?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Number of dependents (if none, check "None")	_____ <input type="checkbox"/> None	_____ <input type="checkbox"/> None
Marital status (answer only if this financial statement is provided in connection with a request for secured credit or applicant is seeking a joint account with spouse.)	<input type="checkbox"/> Married	<input type="checkbox"/> Married
	<input type="checkbox"/> Separated	<input type="checkbox"/> Separated
	<input type="checkbox"/> Unmarried	<input type="checkbox"/> Unmarried

(Unmarried includes single, divorced, widowed)

The foregoing statement, submitted for the purpose of obtaining credit, is true and correct in every detail and fairly shows my/our financial condition at the time indicated. I/we will give you prompt written notice of any subsequent substantial change in such financial condition occurring before discharge of my/our obligations to you. I/we understand that you will retain this personal financial statement whether or not you approve the credit in connection with which it is submitted. You are authorized to check my/our credit and employment history or any other information contained herein.

THE UNDERSIGNED CERTIFY THAT THE INFORMATION CONTAINED ON THIS FORM HAS BEEN CAREFULLY REVIEWED AND THAT IT IS TRUE AND CORRECT IN ALL RESPECTS.

_____	_____
Date	My signature
_____	_____
Date	Co-applicant signature (if you are requesting the financial accommodation jointly)

# 5-1 IRS Form W-4 Employee's Withholding Allowance Certificate

## 1992 Form W-4



**Purpose.** Complete Form W-4 so that your employer can withhold the correct amount of Federal income tax from your pay.

**Exemption from Withholding.** Read line 7 of the certificate below to see if you can claim exempt status. If exempt, complete line 7, but do not complete lines 5 and 6. No Federal income tax will be withheld from your pay. Your exemption is good for one year only. It expires February 15, 1993.

**Basic Instructions.** Employees who are not exempt should complete the Personal Allowances Worksheet. Additional worksheets are provided on page 2 for employees to adjust their withholding allowances based on itemized deductions, adjustments to income, or two-earner/two-job situations. Complete all worksheets that apply to your situation. The worksheets will help you figure

the number of withholding allowances you are entitled to claim. However, you may claim fewer allowances than this.

**Head of Household.** Generally, you may claim head of household filing status on your tax return only if you are unmarried and pay more than 50% of the costs of keeping up a home for yourself and your dependent(s) or other qualifying individuals.

**Nonwage Income.** If you have a large amount of nonwage income, such as interest or dividends, you should consider making estimated tax payments using Form 1040-ES. Otherwise, you may find that you owe additional tax at the end of the year.

**Two-Earner/Two-Jobs.** If you have a working spouse or more than one job, figure the total number of allowances you are entitled to claim on all jobs using worksheets from only one Form

W-4. This total should be divided among all jobs. Your withholding will usually be most accurate when all allowances are claimed on the W-4 filed for the highest paying job and zero allowances are claimed for the others.

**Advance Earned Income Credit.** If you are eligible for this credit, you can receive it added to your paycheck throughout the year. For details, get Form W-5 from your employer.

**Check Your Withholding.** After your W-4 takes effect, you can use Pub. 719, Is My Withholding Correct for 1992?, to see how the dollar amount you are having withheld compares to your estimated total annual tax. Call 1-800-829-3876 to order this publication. Check your local telephone directory for the IRS assistance number if you need further help.

**Personal Allowances Worksheet** For 1992, the value of your personal exemption(s) is reduced if your income is over \$105,250 (\$157,900 if married filing jointly, \$131,550 if head of household, or \$78,950 if married filing separately). Get Pub. 919 for details.

A Enter "1" for yourself if no one else can claim you as a dependent A \_\_\_\_\_

B Enter "1" if: B \_\_\_\_\_

- You are single and have only one job; or
- You are married, have only one job, and your spouse does not work; or
- Your wages from a second job or your spouse's wages (or the total of both) are \$1,000 or less.

C Enter "1" for your spouse. But, you may choose to enter "0" if you are married and have either a working spouse or more than one job (this may help you avoid having too little tax withheld) C \_\_\_\_\_

D Enter number of dependents (other than your spouse or yourself) whom you will claim on your tax return D \_\_\_\_\_

E Enter "1" if you will file as head of household on your tax return (see conditions under "Head of Household," above) E \_\_\_\_\_

F Enter "1" if you have at least \$1,500 of child or dependent care expenses for which you plan to claim a credit F \_\_\_\_\_

G Add lines A through F and enter total here. Note: This amount may be different from the number of exemptions you claim on your return. G \_\_\_\_\_

For accuracy, do all worksheets that apply.

- If you plan to itemize or claim adjustments to income and want to reduce your withholding, see the Deductions and Adjustments Worksheet on page 2.
- If you are single and have more than one job and your combined earnings from all jobs exceed \$29,000 OR if you are married and have a working spouse or more than one job, and the combined earnings from all jobs exceed \$50,000, see the Two-Earner/Two-Job Worksheet on page 2 if you want to avoid having too little tax withheld.
- If neither of the above situations applies, stop here and enter the number from line G on line 5 of Form W-4 below.

..... Cut here and give the certificate to your employer. Keep the top portion for your records. ....

Form <b>W-4</b> Department of the Treasury Internal Revenue Service	<h3>Employee's Withholding Allowance Certificate</h3> For Privacy Act and Paperwork Reduction Act Notice, see reverse.	OMB No. 1545-0010 <b>1992</b>
1 Type or print your first name and middle initial <span style="float:right">Last name</span>		2 Your social security number
Home address (number and street or rural route)		3 <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Married, but withhold at higher Single rate. Note: If married, but legally separated, or spouse is a nonresident alien, check the Single box.
City or town, state, and ZIP code		4 If your last name differs from that on your social security card, check here and call 1-800-772-1213 for more information. <input type="checkbox"/>
5 Total number of allowances you are claiming (from line G above or from the Worksheets on back if they apply)		5   _____ 8   5
6 Additional amount, if any, you want deducted from each paycheck		
7 I claim exemption from withholding and I certify that I meet ALL of the following conditions for exemption: <ul style="list-style-type: none"> <li>• Last year I had a right to a refund of ALL Federal income tax withheld because I had NO tax liability; AND</li> <li>• This year I expect a refund of ALL Federal income tax withheld because I expect to have NO tax liability; AND</li> <li>• This year if my income exceeds \$600 and includes nonwage income, another person cannot claim me as a dependent.</li> </ul> If you meet all of the above conditions, enter the year effective and "EXEMPT" here <span style="float:right">7 : 19</span>		
8 Are you a full-time student? (Note: Full-time students are not automatically exempt.)		8 <input type="checkbox"/> Yes <input type="checkbox"/> No
Under penalties of perjury, I certify that I am entitled to the number of withholding allowances claimed on this certificate or entitled to claim exempt status.		
Employee's signature <span style="float:right">Date</span>		19 ____
9 Employer's name and address (Employer: Complete 9 and 11 only if sending to the IRS)		10 Office code (optional)
		11 Employer identification number

716-325

## 5-2 Form I-9 Employee Eligibility Verification

U.S. Department of Justice  
Immigration and Naturalization Service

OMB No. 1115-0136  
Employment Eligibility Verification

Please read instructions carefully before completing this form. The instructions must be available during completion of this form. **ANTI-DISCRIMINATION NOTICE.** It is illegal to discriminate against work eligible individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because of a future expiration date may also constitute illegal discrimination.

**Section 1. Employee Information and Verification.** To be completed and signed by employee at the time employment begins

Print Name: Last <u>Johnson</u> First <u>George</u> Middle Initial <u>B.</u> Maiden Name <u>N/A</u>	
Address (Street Name and Number) <u>145 Elm</u> Apt. # <u>201</u> Date of Birth (month/day/year) <u>6/14/67</u>	
City <u>Central City</u> State <u>MT</u> Zip Code <u>59991</u> Social Security # <u>123-44-9976</u>	

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following):  
 A citizen or national of the United States  
 A Lawful Permanent Resident (Alien # A \_\_\_\_\_)  
 An alien authorized to work until \_\_\_\_\_ (Alien # or Admission # \_\_\_\_\_)

Employee's Signature <u>George B Johnson</u> Date (month/day/year) <u>6/5/92</u>
--

**Preparer and/or Translator Certification.** (To be completed and signed if Section 1 is prepared by a person other than the employee.) I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

Preparer's/Translator's Signature _____ Print Name _____
Address (Street Name and Number, City, State, Zip Code) _____ Date (month/day/year) _____

**Section 2. Employer Review and Verification.** To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C as listed on the reverse of this form and record the title, number and expiration date, if any, of the document(s)

List A	OR	List B	AND	List C
Document title: <u>MT Drivers License</u>		_____		_____
Issuing authority: <u>Montana</u>		_____		_____
Document #: <u>123-44-9976</u>		_____		_____
Expiration Date (if any): <u>6.4.95</u>		___/___/___		___/___/___
Document #: _____		_____		_____
Expiration Date (if any): ___/___/___		___/___/___		___/___/___

**CERTIFICATION** - I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) 6/5/92 and that to the best of my knowledge the employee is eligible to work in the United States. (State employment agencies may omit the date the employee began employment.)

Signature of Employer or Authorized Representative <u>[Signature]</u> Print Name <u>Tim Leader</u> Title <u>President</u>
Business or Organization Name <u>Montana Stitches</u> Address (Street Name and Number, City, State, Zip Code) <u>100 Main St. Central City MT</u> Date (month/day/year) <u>6/5/92</u>

**Section 3. Updating and Reverification.** To be completed and signed by employer

A. New Name (if applicable) _____	B. Date of rehire (month/day/year) (if applicable) _____
C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment eligibility.	
Document Title: _____	Document #: _____
Expiration Date (if any): ___/___/___	

I attest, under penalty of perjury, that to the best of my knowledge, this employee is eligible to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative _____	Date (month/day/year) _____
--	-----------------------------

### 5-3 Form UI-1 Employer Registration

State of Montana Department of Labor and Industry Unemployment Insurance Division Contributions Bureau (406) 444-3834 P.O. Box 1728, 1327 Lockey Helena, MT 59624	<h2 style="margin: 0;">EMPLOYER REGISTRATION</h2>	<b>AGENCY USE ONLY</b> Employer Number				
Return original to: Contributions Bureau Unemployment Insurance Division P.O. Box 1728, Helena, MT 59624 Retain copy for your files		Subject Date: _____ Date input: _____				
Fill in all the blank spaces below. If an item does not apply to your business, write NCNE in that space.						
1. Business or Trade Name <u>Montana Stitchery, Inc</u>						
2. Mailing Address <u>100 Main Street</u>		City: <u>Central City</u> County: <u>Silver Bow</u> State: <u>MT</u> ZIP Code: <u>59414</u>				
Montana Business Location (Do Not Use Box Number) <u>Same</u>		City: _____ State: _____ ZIP Code: _____ Phone Number: _____				
3. Type of Organization <input type="checkbox"/> Individual Ownership <input type="checkbox"/> Partnership <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Other (explain) _____		Corporation Name: <u>Montana Stitchery, Inc.</u> Date incorporated: <u>6/1/92</u>				
4. Identification of Owner(s), Corporation Officers, Partners, Etc.						
Social Security Number	Name (Given Name Must Be Shown in Full)	Title				
<u>955-14-1414</u>	<u>Timothy Lester Leader</u>	<u>President</u>				
<u>555-99-1111</u>	<u>Jeffery Workman</u>	<u>Vice President</u>				
<u>444-66-2222</u>	<u>Imamus N. Vestor</u>	<u>owner</u>				
Name of Person Who Prepares Records and Reports <u>Jeffery Workman</u>		Address: <u>100 Main St Central City</u> Telephone No.: <u>411-3421</u>				
5. Name of Accountant <u>Same</u>		Address: <u>same</u> Telephone No.: <u>411-3421</u>				
6. Principal Product Produced, Commodity Sold or Service Performed (please complete as this is used to compute your experience rating) <u>Manufacture (sew) bags</u>		City or County of Montana in which Most Employees Work: <u>Silver Bow</u> Greatest No. of Employees in Any Calendar Quarter: <u>5</u> Date Employment Began: <u>6/5/92</u>				
7. Supply the following information concerning employment given and wages paid in Montana during each of the following years:						
YEARS						To Date in '92
Wages Paid Each Year	→	→	→	→	→	→
Will your total payroll for the current calendar year equal or exceed \$1000? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    Date payroll will equal or exceed \$1000 _____						
If you are no longer employing, give date ceased, _____ and the date you will resume _____						
8. If you acquired your business from another owner, give the date, the former owner's name, firm name and employer account number: <u>N/A</u>						
9. If you did not acquire all of the former owner's business describe the part you did acquire: <u>N/A</u>				What part did the former owner retain? <u>N/A</u>		
10. Are you required to pay Federal Unemployment Tax (FUTA)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No This number is important to insure you receive credit for Federal Unemployment Tax purposes. If you have not been assigned a Federal Account Number, please mail this report and supply this number when it is received.    Enter your Federal Account Number <u>89-9361111</u>						
Signature		Title		Date		
<u>Tim Leader</u>		<u>President</u>		<u>6/1/92</u>		
<u>Jeffery Workman</u>		<u>Vice President</u>		<u>6/1/92</u>		
<u>Imamus N. Vestor</u>		<u>owner</u>		<u>6/1/92</u>		

UI-1 Rev. 10-89

Please Have All Owners or Partners Sign This Document



### 5-4 Form RAUI1 Establishment Activity and Location Statement

State of Montana P.O. Box 1728	Department of Labor and Industry Employment Policy Division	Research and Analysis Bureau Helena, MT 59624
<b>ESTABLISHMENT ACTIVITY AND LOCATION STATEMENT</b>		
This form must be completed and returned in the enclosed envelope.		
1. Business Name MONTANA STITCHERY INC.	Telephone Number 406 411-3421	
2. What is the principal activity or product produced by your business in Montana? Manufacture (sew) nylon and leather bags		
3. ACTIVITIES: Please read the statements listed below and check the box beside the statement that best describes your business. Follow the instructions for that specific economic group and list your establishment's specific products or services in Section 4 using a separate line for each activity.		
<input type="checkbox"/> AGRICULTURAL, FORESTRY OR FISHING activities, specify separately each type of crop grown, crop services, horticultural specialty, livestock raised, fish caught, forestry work. For crops, also specify where grown - field, greenhouse, etc. For livestock, also specify purpose for which raised - meat, dairy, egg production, etc. Describe related services performed.		
<input type="checkbox"/> COMMUNICATIONS activities, specify separately types of service (e.g., local, long distance or data telephone communications, TV or radio broadcasting, cable TV service, leasing of long distance telephone lines, cellular telephone services, etc.).		
<input type="checkbox"/> CONSTRUCTION activities, specify the types of structures or projects (e.g., single family houses; residential, industrial, or office buildings; bridges; roads) for which you have full responsibility. For special trade or sub-contractors, specify type and/or trade specialties (e.g., plumbing, electrical, heating and air conditioning, roofing, painting, carpentry, drywall, etc.).		
<input type="checkbox"/> FINANCE, INSURANCE OR REAL ESTATE activities, specify type of (1) financial institution and Charter (State, National or Federal); (2) insurance sold and whether underwriter or agent; or (3) real estate activities. For operators of residential buildings, specify number of housing units and whether you own the property or operate it for others.		
<input checked="" type="checkbox"/> MANUFACTURING activities, specify separately the products produced, type of plant, and principal process(es) used. Also list the principal materials/products used in the process and their source (i.e., purchased from other companies, transferred from other establishments of your company, or produced as an intermediate product at your location).		
<input type="checkbox"/> MINING, QUARRYING, OR OIL OR GAS EXTRACTION activities, specify separately each mineral or product extracted. If coal mining, specify whether surface or underground. If mining service, describe service and mineral involved, and specify whether you have full responsibility for the site operation.		
<input type="checkbox"/> PRIVATE HOUSEHOLDS employing domestic help, please check the box to the left and go to Question 6.		
<input type="checkbox"/> If providing SERVICES, (e.g., lodging, membership, educational, medical, legal, amusement, or repair services) specify separately the principal types of services your business performs.		
<input type="checkbox"/> TRADE activities, specify separately the different types of goods sold and (1) whether at WHOLESALE or RETAIL, (2) whether goods are new or used, (3) type of customers (e.g., individuals or other businesses).		
<input type="checkbox"/> TRANSPORTATION AND/OR WAREHOUSING activities, specify separately transportation mode (e.g., scheduled airline, air or land courier, trucking, pipeline, water) and area of service (e.g., local or long distance). If warehousing, describe type (e.g., farm products, refrigerated, general, etc.). If transportation related services, describe type (e.g., shipping agent, travel agency).		
<input type="checkbox"/> UTILITY OR SANITARY SERVICE activities, specify separately each type of service (e.g., electric power generation, natural gas transmission and/or distribution, water, irrigation, sewage, refuse systems).		

**4. PRODUCTS OR SERVICES**  
 Estimate the percentage that each product or service represents of the establishment's total sales (receipts or revenues). When completed, the sum of all products or services should equal 100%. If more space is required, attach a separate sheet using the same format.

	PERCENTAGE (%)
<u>Nylon &amp; leather bags</u>	<u>100%</u>
_____	_____
_____	_____
_____	_____
TOTAL (MUST EQUAL 100%)	_____

5. Do you operate this business in more than one physical location in Montana?  Yes  No  
 If Yes, skip to question 7. If No, answer questions 6 and 6A only.

6. County in Montana in which your business is located. Silver Bow 6A. Is your business located within city limits?  Yes  No

7. INFORMATION FOR MULTIPLE PHYSICAL LOCATIONS. If you operate this business in more than one physical location (e.g., worksites, plants, stores, offices, etc.) in this State please provide the information requested below for each location. Also provide an estimate of the number of employees that normally work at each location.

County in Montana where your main office or place of business is located.			
Street Address (1) <u>100 Main Street</u>	City/State <u>COURTNEY CITY</u>	Zip <u>59414</u>	Inside City Limits? <u>Yes</u>
Principal products or services <u>Manufacture bags</u>	Number of Employees <u>5</u>	County <u>Silver Bow</u>	
Street Address (2)	City/State	Zip	Inside City Limits?
Principal products or services	Number of Employees	County	
Street Address (3)	City/State	Zip	Inside City Limits?
Principal products or services	Number of Employees	County	
Street Address (4)	City/State	Zip	Inside City Limits?
Principal products or services	Number of Employees	County	


8. Does this establishment primarily perform management or support services for other units of the company? (This applies only to businesses located in Montana.)  Yes  No  
 If Yes, please indicate below the nature of these services.

Administrative (Headquarters, Data Processing Centers, etc.)  Research, Development, or Testing  
 Storage (Warehouse)

For Agency Use Only Sic _____ Area _____ Auxiliary _____ Multi Ind _____ City Limits _____	If you have questions on this form, please call: In-State (1-800-633-0229) Out-of-State (1-800-541-3904) Local (444-2430)
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RAU11 02-90

5-5 Form SF-MIS LF100A Workers' Compensation Insurance Application

	<b>WORKERS' COMPENSATION INSURANCE APPLICATION</b> STATE COMPENSATION MUTUAL INSURANCE FUND P.O. BOX 4759 HELENA, MONTANA 59604-4759 UNDERWRITING DEPARTMENT POLICY SERVICES (406) 444-8440	STATE FUND MAIL ROOM DATE	
Name of Applicant <u>Tim Leader</u>		Federal Tax ID No. <u>89-4361111</u>	Telephone No. <u>406 411-3421</u>
Business Names And Locations	Name <u>Montana Stitchery Inc</u>	Street <u>100 MAIN ST</u>	City or Location <u>Central City</u>
Mailing Address	Street or Box <u>same</u>	City	State ZIP
Type of Business	<u>Manufacture nylon &amp; leather bags</u>		
COMPLETE IF PAYROLL IS KEPT BY AN ACCOUNTANT Accountant's Name		Number of Workplaces: (See accompanying Instructions regarding Posting Notices for description of "workplace.") <u>1</u>  Telephone No.	
<b>OPTIONAL MAILING ADDRESSES</b> Ordinarily all policy and claims correspondence is directed to the above applicant's mailing address, however, either or both of the following options are available: If you wish to have all POLICY CORRESPONDENCE (such as your policy, coverage status signs, payroll reports and billings) sent to your accountant, enter the ACCOUNTANT'S MAILING ADDRESS:			
Street or Box		City	State ZIP
If you wish to have CLAIMS CORRESPONDENCE (such as requests for accident reports and notices of benefit status) sent to a separate address, enter the CLAIMS MAILING ADDRESS:			
Name	Street or Box	City	State ZIP
<b>GENERAL INFORMATION</b>			
Have you previously been insured by the State Fund (formerly Workers' Compensation Division)?		<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES	Policy No. 03-  Cancellation Date
Last Company with which insurance was active.		Cancellation or Expiration Date of Policy	
Were you insured under this same ownership?		<input type="checkbox"/> YES <input type="checkbox"/> NO	If not, explain.
Did you acquire this business from another owner?		<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES	If yes, check one. <input type="checkbox"/> Buy <input type="checkbox"/> Lease <input type="checkbox"/> Other. (Explain.)
Name of former Owner		Effective Date	
Are you a subsidiary of another entity or do you have any subsidiaries?		<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES	If yes, list name(s) and explain relationship(s).

**OWNERSHIP INFORMATION AND COVERAGE**

Please refer to Instructions prior to completion of this section; ownership information must be given regardless of coverage selection. Account for 100% ownership. Attach additional pages if necessary.

Check one of the following which best describes how business is operated.

- Sole Proprietorship  
  Partnership  
  Corporation  
  Other (specify)

List Names of all owners, partners, corporate officers or shareholders.	Social Security No.	Percent Owned	Title	Duties	Annual Earnings	Montana Resident?		Coverage Desired?	
						Yes	No	Yes	No
Tim Leader	555-14-1414	22%	Pres	Management	?	✓			✓
Jeff Workman	555-99-1111	22%	VP	Management	?	✓			✓
I. N. Vester	444-66-2222	56%	-	NONE		✓			✓

\* Corporate officers: Rejection forms for exclusion will be supplied all Montana resident corporate officers who **DO NOT DESIRE COVERAGE**. Coverage IS NOT extended to corporate officers who **DO NOT** reside and **DO NOT** work in Montana.  
 Sole Proprietors and partners: An endorsement form to elect coverage will be supplied for any owner or partners who **DO DESIRE COVERAGE**.

**OPTIONAL COVERAGES**

If you wish to **ELECT COVERAGE** for any other exempted coverages, please request the endorsement forms be supplied by checking the appropriate box(es) below.

- |  |   |   |   |
|--|---|---|---|
| <input type="checkbox"/> Household or Domestic Employees | <input type="checkbox"/> Casual Employment                            | <input type="checkbox"/> Persons working in return for aid or sustenance only | <input type="checkbox"/> Direct home sellers of consumer products       |
| <input type="checkbox"/> Dependent Family Members        | <input type="checkbox"/> Volunteer Workers                            | <input type="checkbox"/> School amateur athletic event officials              | <input type="checkbox"/> Contract, licensed barbers or cosmetologists   |
|  | <input type="checkbox"/> Licensed real estate brokers or salespersons |   | <input type="checkbox"/> Newspaper carriers or freelance correspondents |

**NOTE: The forms to apply for optional coverages and officer exclusion must be completed and returned and are subject to approval. Upon receipt of the completed forms, the State Fund will notify you, in writing, of the effective dates of coverage or exclusion.**

**CONTRACT WORKERS AND EMPLOYEE INFORMATION**

Do you have contract workers?  NO    YES      If yes, do you require certificates of insurance?    YES    NO

Do you have workers' compensation in other states?    YES    NO      Do you have employees who leave the state on business?    YES    NO

List names and locations of operations in other states.

**OTHER GENERAL INFORMATION**

Does your business operate an aircraft for business purposes?  YES  NO

Is a formal safety program in operation?  YES  NO      Are pre-employment physicals required?  YES  NO

**TYPES OF EMPLOYMENT INFORMATION**

Describe the various jobs, duties or services performed by your employees. Do not include owner, partners or corporate officers. Use additional pages if necessary.	STATE FUND USE ONLY CLASS CODE	ESTIMATED ANNUAL EARNINGS	NUMBER OF EMPLOYEES
Sewing of nylon and/or leather bags		15000	3

**OPERATIONS INFORMATION**

Check the appropriate box or boxes below which best describe the nature of your business and complete the detailed information as requested.

CONSTRUCTION - Describe type of work performed, type of structures built, materials used and the trades involved.

FARMING OR RANCHING - Describe principal product.

MANUFACTURING - Describe operation from raw material to finished product.

MINING     Underground  Surface. Describe type of mineral extracted such as gold, coal and so on.

DRILLING  Oil or Gas     Water     Other such as seismograph, shot-hole. Describe drilling methods.

OTHER - Restaurant, bar, hospital, laundry and so on. Describe nature of business.

GAS STATION

Self Service     Full Service     Combined Gas Station & Grocery Store: Percentage \_\_\_\_\_ % Retail    \_\_\_\_\_ % Wholesale of Gross Receipts

TRUCKING - Describe type of merchandise transported as well as areas of operations. If you OWN the cargo, then Trucking classification does not apply.

OPERATIONS INFORMATION (Continued)

GROCERY OR CONVENIENCE STORE

What are your business hours?

Sunday \_\_\_\_\_ TO \_\_\_\_\_  
 Monday \_\_\_\_\_ TO \_\_\_\_\_  
 Tuesday \_\_\_\_\_ TO \_\_\_\_\_  
 Wednesday \_\_\_\_\_ TO \_\_\_\_\_  
 Thursday \_\_\_\_\_ TO \_\_\_\_\_  
 Friday \_\_\_\_\_ TO \_\_\_\_\_  
 Saturday \_\_\_\_\_ TO \_\_\_\_\_

Check all types of merchandise you sell.

- Groceries \_\_\_\_\_
- Packaged meat \_\_\_\_\_
- Fresh meat \_\_\_\_\_
- Non-food items such as soap, tobacco, pet food, paper products, magazines, auto oil, and so on. \_\_\_\_\_
- Gasoline \_\_\_\_\_ # of pumps \_\_\_\_\_
- Diesel fuel \_\_\_\_\_ # of pumps \_\_\_\_\_

Percentage of Annual Gross Receipts

How many square feet are devoted to display and sales? Do not include warehouse or storage areas. \_\_\_\_\_

TOTAL 100.0%

STORES - Describe all types of merchandise such as furniture, auto parts, and so on.

Delivery of merchandise?  YES  NO

Retail  Wholesale  Combined Retail & Wholesale: \_\_\_\_\_ %  
 Percentage of Gross Receipts \_\_\_\_\_ Retail \_\_\_\_\_ Wholesale

Are you engaged in any other type of business not addressed in this application? If yes, please explain.  NO  YES

PROCESSING QUESTIONS

What date would you like this coverage to be effective? 6/5/92

Would you like to submit the initial deposit in the form of a certificate of deposit? If so, assignment agreement will be provided with your statement of initial deposit. (Please note: \$1,000 minimum certificate of deposit required.)  YES  NO


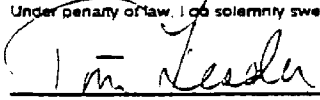
INCOMPLETE APPLICATIONS MAY CAUSE DELAYS IN YOUR COVERAGE  
 RETURN ORIGINAL TO STATE FUND

CERTIFICATION

I hereby certify that I have read and fully understand the accompanying instructions and have completed this application form to the best of my ability. All the information provided herein is true and correct. I also authorize the State Fund to obtain any previous experience data from the National Council on Compensation Insurance.

Tom Leader  
 AUTHORIZED SIGNATURE  
President 6/4/92  
 TITLE DATE

### 5-6 Form SF-MIS LF220E Corporate Officer Rejection Endorsement

	<b>STATE COMPENSATION MUTUAL INSURANCE FUND</b> P.O. BOX 4759 HELENA, MT 59604-4759  UNDERWRITING DEPARTMENT POLICY SERVICES (406) 444-4440	<b>CORPORATE OFFICER REJECTION ENDORSEMENT</b>  (STATE FUND USE ONLY)  Policy No. _____	STATE FUND MAIL ROOM DATE  _____
<b>ENDORSEMENT AGREEMENT REJECTING COVERAGE FOR A CORPORATE OFFICER (Subject to State Fund Approval)</b>			
Under Montana's Workers' Compensation and Occupational Disease Act, an officer of a corporation is covered under the corporation's workers' compensation insurance policy unless the officer files a rejection form which is approved by the insurer.			
<b>CORPORATION</b>		<b>CORPORATE OFFICER</b>	
Name and Address	Montana Stitchery, Inc 100 Main Street Central City, MT 58414	Name and Address	TIM LEADER 14 W. Pine, Central City, MT Title: <u>PRESIDENT</u> Date Elected to Office: <u>6/1/92</u> Social Security No. <u>555-14-1414</u>
Phone No.	406 411-3421		
Having been properly designated under law as an officer of the above-named corporation, I elect not to be covered as an employee under the Workers' Compensation Act. I make this election because I qualify under one (1) or more of the following provisions. Check the appropriate provision(s).			
<input type="checkbox"/> (a) I am not engaged in performing the ordinary duties of a worker for the corporation named above, and I do not receive any pay from the corporation for performing the ordinary duties of a worker for that corporation.			
<input type="checkbox"/> (b) I am engaged primarily in household employment for the corporation named above.			
<input checked="" type="checkbox"/> (c) I own twenty percent (20%) or more of the number of shares of stock in the corporation named above.			
<input type="checkbox"/> (d) I am (CIRCLE ONE) the husband, wife, child, adopted child, stepchild, mother, father, son-in-law, daughter-in-law, nephew, niece, brother, sister of an individual who owns twenty percent (20%) or more of the number of shares of stock in the corporation named above.			
<input type="checkbox"/> (e) The corporation named above has been organized as a non-profit corporation.			
Under penalty of law, I do solemnly swear that the above information, including the information indicated next to the checked box(es), is true.			
 SIGNATURE OF OFFICER ELECTING NOT TO BE COVERED		President TITLE	6/1/92 DATE
Subscribed and sworn to before me, this _____ day of _____, 19____.			
Notary Public for the State of _____ residing at _____			
My Commission expires _____, 19____.		Notary Signature _____	
From the effective date of this rejection, earnings of the above corporate officer shall not be included in payroll reports submitted to the State Fund. Mail both copies of the completed rejection to the State Fund, P.O. Box 4759, Helena, MT 59604-4759. We will return a completed copy of the rejection for the corporation's files. If approved, this rejection will remain in effect until the policy is cancelled or we receive the officer's written request to be covered. Notify the State Fund IMMEDIATELY if there is a change in the officer's corporate association.			
LOWER PORTION TO BE COMPLETED BY STATE FUND ONLY			
This Endorsement is hereby: <input type="checkbox"/> Approved <input type="checkbox"/> Not Approved			
Reason not approved: _____			
_____ AUTHORIZED SIGNATURE		_____ DATE	_____ EFFECTIVE DATE

### 5-7 Form ERD-840A Application for Independent Contractor Exemption

State of Montana Department of Labor and Industry Employment Relations Division Standards Bureau (406) 444-7734 P.O. Box 8011 Helena, MT 59604-8011	<b>APPLICATION FOR                  INDEPENDENT CONTRACTOR EXEMPTION</b>	Date Stamp
Name of applicant _____		Social Security Number _____
Address of applicant _____		City _____ State _____ Zip Code _____
Applicant's Telephone Number _____	Business Telephone Number _____	Applicant's Federal I.D. Number _____
Business Name and Brief Description of Business: _____ _____ _____		
<b>INSTRUCTIONS</b>		
Complete this form only if you are a sole proprietor or a working member of a partnership holding yourself out to be an independent contractor and do not want workers' compensation and unemployment insurance on yourself. Employees or independent contractors who want workers' compensation or unemployment insurance should not complete this form.		
If the information presented shows you meet department requirements, we will send you an approval letter. You must also complete an Independent Contractor Exemption Annual Review form (generated by this office when due) to retain this status. If your application is denied and you do not agree with the Department's decision, you may appeal to the Department of Labor and Industry to present or clarify facts and present arguments in support of your application. Your appeal must be filed within 10 days of the decision.		

**COMPLETE THIS SECTION**

**NOTE:** A hiring agent is one for whom you provide the service.

1. Do you receive any training from the hiring agent?  Yes  No  
 If so, what kind? \_\_\_\_\_  
 How often? \_\_\_\_\_
  
2. Are you given instructions in the way the work is to be done?  Yes  No  
 If yes, give specific examples: \_\_\_\_\_  
 \_\_\_\_\_
  
3. Does the operation of the hiring agent's business require you to be supervised or controlled in the performance of the service?  Yes  No  
 \_\_\_\_\_
  
4. Does the hiring agent engage you for:  Particular job  Indefinite period  Other (explain) \_\_\_\_\_  
 \_\_\_\_\_
  
5. Are you required to follow a routine or a schedule established by the hiring agent?  Yes  No  
 If yes, what is the routine or schedule? \_\_\_\_\_  
 \_\_\_\_\_
  
6. State the kind and value of tools and equipment furnished by:  
 The hiring agent \_\_\_\_\_  
 \_\_\_\_\_  
 Yourself \_\_\_\_\_  
 \_\_\_\_\_
  
7. State the kind and value of supplies and materials furnished by:  
 The hiring agent \_\_\_\_\_  
 \_\_\_\_\_  
 Yourself \_\_\_\_\_  
 \_\_\_\_\_
  
8. Does the hiring agent reimburse you for any expenses?  Yes  No  
 If yes, specify the reimbursed expenses \_\_\_\_\_  
 \_\_\_\_\_



9. Do you have helpers?  Yes  No If no, skip to question 10

Are the helpers hired by:  Hiring agent  You  
 If hired by you, is the hiring agent's approval necessary?  Yes  No

Who pays the helpers?  Hiring agent  You  
 If you pay the helpers, does the hiring agent repay you?  Yes  No

What services do the helpers perform? \_\_\_\_\_  
 \_\_\_\_\_

Who reports the helper's income to the Internal Revenue Service?  
 Hiring agent  You  Unknown

If you have employees, list the account numbers for the following:  
 Your unemployment insurance account number \_\_\_\_\_  
 Your workers' compensation number \_\_\_\_\_

10. Type of payment you receive:  Salary  Commission  Hourly Wage  
 Piecework  Lump Sum  Other (specify) \_\_\_\_\_

11. Are you prohibited from competing with the hiring agent either during the time you are performing services or at a later period?  Yes  No

12. Do you own and operate your own independently established trade, occupation, profession or business?  
 Yes  No If yes, please attach:

- 1) evidence that you pay self-employment tax for yourself by submitting a copy of your most recent Federal or State Income Tax Return showing income and expenses of your business, e.g. Schedule C or 1040ES (estimated tax form); and
- 2) two or more of the following: printed invoices, business cards, business license or permits, public advertisements, business checking account (authorization card), or business telephone listing; and
- 3) a letter, contract, or accepted bid proposal from the current hiring agent and from at least two other hiring agents. Each should state you are now or were under contract to them during the past twelve months as an independent contractor in the business identified on the face of this form, and that you were free of their control or direction over the performance of your service, other than control or direction required by government regulation.

Read Declaration, sign and date this form and return with attachments to \_\_\_\_\_ Department.

**DECLARATIONS**

Please read the following carefully:

I make this statement with the understanding that as an independent contractor, I am required to purchase workers' compensation insurance or obtain this exemption.

I understand this application applies only to me and not to any person who is employed by me. If I have employees, I must obtain an unemployment insurance account and a workers' compensation policy.

I understand if this application is approved by the Department, the exemption will be in effect until I notify the Department in writing of a change in my status or if my status is determined to have changed during an independent contractor exemption annual review. If any future investigation concludes I am not an independent contractor, this exemption will be voided by the Department.

If this application is approved, I understand the services I perform as an independent contractor are not covered by unemployment insurance.

I understand if this application is approved and unless I purchase workers' compensation insurance for myself, I am waiving all my rights to compensation and medical benefits in the event I sustain an industrial injury or an occupational disease when I am working as an independent contractor. (Note: The benefits of a worker covered by workers' compensation include: a) medical services for a work-related injury; b) compensation for wage loss due to the injury; and c) additional benefits as described in the Workers' Compensation and Occupational Disease Acts.)

My signature on this application indicates my request for an exemption from the requirements of the Workers' Compensation Act and Unemployment Insurance Law and that all the information and declarations I have supplied with this application are true, complete and correct to the best of my knowledge.

Date \_\_\_\_\_ Signature \_\_\_\_\_

Disapproved  DEPARTMENT USE ONLY Date \_\_\_\_\_

Approved  \_\_\_\_\_

Standard Bureau Authorized Signature

Explanation, if denied:

# 5-8 Form ER-1 Withholding Tax/Workers' Compensation Payroll Tax Registration

## MONTANA

DEPARTMENT OF REVENUE  
WITHHOLDING TAX/WORKERS' COMPENSATION PAYROLL TAX REGISTRATION

CHECK TAX/TAXES YOU ARE REGISTERING FOR: WITHHOLDING  PAYROLL

1. Federal Employer I.D. Number <b>89-4361111</b>		<b>FOR HELP IN COMPLETING FORM SEE INSTRUCTIONS ON BACK</b>		2. State Employer I.D. Number (See Instructions)	
3. Name (Last Name, First, True Name as Distinguished From Trade Name) <b>Montana Stitchery Inc</b>			4. Enter Date Wages First Paid and/or the date you paid Workers' Compensation Insurance <b>6/31/92</b>		
5. Trade Name, if any (Enter Name Under Which Business is Operated, if Different From Item 3)			Enter Peak Number of Montana Employees Expected in Next 12 Months <b>5</b>		
6. Mailing Address <b>100 MAIN STREET</b>			11. Business Type: Is your business seasonal? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, dates of operation: From _____ to _____		
7. Mailing Address			12. Country of Principal Employment <b>Silver Bow</b>		
8. City <b>Central City</b>		9. State <b>MT</b>	10. Zip Code <b>58414</b>	13. Is your spouse your only employee Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
11. Type of Organization (Check Applicable Box and Complete Section Below as Indicated)			12. Is your business Agricultural Other (office use only) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
<input type="checkbox"/> 1 Governmental	<input type="checkbox"/> 2 Partnership (Complete Section III)	<input type="checkbox"/> 3 Non-Profit Organization (Complete Section III)			
<input checked="" type="checkbox"/> 4 Individual (Complete Section III)	<input checked="" type="checkbox"/> 5 Corporation (Complete Section III)	<input type="checkbox"/> 6 Other (Specify _____) (Complete Sections III & IV)			
Nature of Business (See Instructions) <b>Manufacture nylon &amp; leather bags</b>			14. Please Leave Blank		
REASON FOR APPLICATION (Check applicable box and complete section below if indicated)					
<input checked="" type="checkbox"/> Started New Business		<input type="checkbox"/> Purchased Existing Business (Complete Section IV)		<input type="checkbox"/> Re-registration (Complete Section IV)	
<input type="checkbox"/> Entity Change (Complete Section IV)		<input type="checkbox"/> Other (Complete Section VI)			
Person Responsible for Preparing and Filing Withholding Forms					
<b>Jeff Workman</b>			<b>Vice President &amp; Treasurer</b>		Phone # <b>411-3421</b>

**FILL OUT THE FOLLOWING AS INDICATED:**

I Complete this section if the actual business location is different from the mailing address.	Business Address  Business Address  City _____ State _____ Zip Code _____						
II Complete this section for individual business.	Owner Name _____ Owner Social Security Number _____						
III Complete this section if business is a partnership, corporation, or non-profit organization. List additional partners on reverse side of form.	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:60%;">(President/Partner) <b>Tim Leader</b></td> <td>Social Security Number <b>55-14-1414</b></td> </tr> <tr> <td>(Secretary/Partner) <b>Mary Leader</b></td> <td>Social Security Number <b>666-41-9141</b></td> </tr> <tr> <td>(Treasurer/Partner) <b>Jeff Workman</b></td> <td>Social Security Number <b>55-99-1111</b></td> </tr> </table>	(President/Partner) <b>Tim Leader</b>	Social Security Number <b>55-14-1414</b>	(Secretary/Partner) <b>Mary Leader</b>	Social Security Number <b>666-41-9141</b>	(Treasurer/Partner) <b>Jeff Workman</b>	Social Security Number <b>55-99-1111</b>
(President/Partner) <b>Tim Leader</b>	Social Security Number <b>55-14-1414</b>						
(Secretary/Partner) <b>Mary Leader</b>	Social Security Number <b>666-41-9141</b>						
(Treasurer/Partner) <b>Jeff Workman</b>	Social Security Number <b>55-99-1111</b>						
IV Complete this section if you purchased an existing business, are re-registering, or changing entity type of organization.	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:60%;">Previous Business Name _____</td> <td>Date Acquired _____</td> </tr> <tr> <td>Previous Owner(s) _____</td> <td>Preceding State Employer I.D. Number _____</td> </tr> </table>	Previous Business Name _____	Date Acquired _____	Previous Owner(s) _____	Preceding State Employer I.D. Number _____		
Previous Business Name _____	Date Acquired _____						
Previous Owner(s) _____	Preceding State Employer I.D. Number _____						
V Complete this section when required to explain type of organization other than those listed in item 13, or reason for organization other than those listed or to continue any other items.	_____ _____ _____						

DATE: **6/5/92** SIGNATURE OF (OWNER) (PARTNER) (PRESIDENT): **Tim Leader President** TELEPHONE NUMBER: **411-3421**

RETURN COMPLETED FORM TO: BUSINESS TAX SECTION  
P.O. BOX 5835  
MT Department of Revenue  
Helena, Montana 59604-5835 Phone: 406-444-3388

**ER-1**  
FORM ER-1 (Rev. 5/91)

# 5-9 IRS Form 941 Employer's Quarterly Federal Tax Return

Form **941**  
(Rev. January 1991)  
Department of the Treasury  
Internal Revenue Service

**4141** ▶ See Circular E for more information concerning employment tax returns.  
Please type or print.

**Employer's Quarterly Federal Tax Return**

Your name, address, employer identification number, and calendar quarter of return. (If not correct, please change.)

Name (as distinguished from trade name) \_\_\_\_\_ Date quarter ended \_\_\_\_\_  
Trade name, if any \_\_\_\_\_ Employer identification number \_\_\_\_\_  
Address and ZIP code \_\_\_\_\_

OMB No. 1545-0029  
Expires: 3-31-93

T  
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If address is different from prior return, check here

If you do not have to file returns in the future, check here  Date final wages paid \_\_\_\_\_  
If you are a seasonal employer, see Seasonal employers on page 2 and check here

1a Number of employees (except household) employed in the pay period that includes March 12th **1a**  
b If you are a subsidiary corporation AND your parent corporation files a consolidated Form 1120, enter parent corporation employer identification number (EIN) **1b**

2 Total wages and tips subject to withholding, plus other compensation **2**  
3 Total income tax withheld from wages, tips, pensions, annuities, sick pay, gambling, etc. **3**  
4 Adjustment of withheld income tax for preceding quarters of calendar year (see instructions) **4**  
5 Adjusted total of income tax withheld (line 3 as adjusted by line 4—see instructions) **5**  
6a Taxable social security wages (Complete) \$ \_\_\_\_\_ × 12.4% (104) = **6a**  
b Taxable social security tips (line 7) \$ \_\_\_\_\_ × 12.4% (104) = **6b**  
7 Taxable Medicare wages and tips \$ \_\_\_\_\_ × 2.9% (029) = **7**  
8 Total social security and Medicare taxes (add lines 6a, 6b, and 7) **8**  
9 Adjustment of social security and Medicare taxes (see instructions for required explanation) **9**  
10 Adjusted total of social security and Medicare taxes (line 8 as adjusted by line 9—see instructions) **10**  
11 Backup withholding (see instructions) **11**  
12 Adjustment of backup withholding tax for preceding quarters of calendar year **12**  
13 Adjusted total of backup withholding (line 11 as adjusted by line 12) **13**  
14 Total taxes (add lines 5, 10, and 13) **14**  
15 Advance earned income credit (EIC) payments made to employees, if any **15**  
16 Net taxes (subtract line 15 from line 14). This should equal line IV below (plus line IV or Schedule A (Form 941) if you have treated backup withholding as a separate liability) **16**  
17 Total deposits for quarter, including overpayment applied from a prior quarter, from your records **17**  
18 Balance due (subtract line 17 from line 16). This should be less than \$500. Pay to IRS. **18**  
19 Overpayment, if line 17 is more than line 16, enter here \$ \_\_\_\_\_ and check if to be:  
 Applied to next return OR  Refunded.

Record of Federal Tax Liability (You must complete if line 16 is \$500 or more and Schedule B is not attached.) See instructions before checking these boxes.  
Check only if you made deposits using the 95% rule  Check only if you are a first-time 3-banking-pay depositor

Show tax liability here, not deposits. IRS gets deposit data from FTD coupons.

Date wages paid	Show tax liability here, not deposits. IRS gets deposit data from FTD coupons.		
	First month of quarter	Second month of quarter	Third month of quarter
1st through 3rd	A	I	O
4th through 7th	B	J	R
8th through 11th	C	K	S
12th through 15th	D	L	T
16th through 19th	E	M	U
20th through 22nd	F	N	V
23rd through 25th	G	O	W
25th through the last	H	P	X
Total liability for month	I	J	III

IV Total for quarter (add lines I, II, and III). This should equal line 16 above.

**Sign Here**  
Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.  
Signature \_\_\_\_\_ Print your Name and Title \_\_\_\_\_ Date \_\_\_\_\_

For Paperwork Reduction Act Notice, see page 2.

# 5-10 IRS Form 940 Employer's Annual Federal Unemployment Tax Return

Form **940** **Employer's Annual Federal Unemployment (FUTA) Tax Return** CMB No. 1545-0029

Department of the Treasury Internal Revenue Service

For Paperwork Reduction Act Notice, see separate instructions.

**1991**

**Name** (as distinguished from trade name) \_\_\_\_\_ **Calendar year** \_\_\_\_\_

**Trade name**, if any \_\_\_\_\_

**Address and ZIP code** \_\_\_\_\_ **Employer identification number** \_\_\_\_\_

*If incorrect, make any necessary change.*

T	
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- A** Did you pay all required contributions to state unemployment funds by the due date of Form 940? (If a 0% excrucience rate is granted, check "Yes" and see instructions.)  Yes  No  
 If you checked the "Yes" box, enter the amount of contributions paid to state unemployment funds **▶** \$ \_\_\_\_\_
- B** Are you required to pay contributions to only one state?  Yes  No  
 If you checked the "Yes" box: (1) Enter the name of the state where you have to pay contributions **▶** \_\_\_\_\_  
 (2) Enter your state reporting numbers) as shown on state unemployment tax return. **▶** \_\_\_\_\_  
 If you checked the "No" box, be sure to complete Part III and see the instructions.
- C** If any part of wages taxable for FUTA tax is exempt from state unemployment tax, check the box. (See the instructions.)

If you will not have to file returns in the future, check here, complete, and sign the return. **▶** \_\_\_\_\_  
 If this is an Amended Return, check here **▶** \_\_\_\_\_

**Part I** Computation of Taxable Wages (to be completed by all taxpayers)

<b>1</b> Total payments (including exempt payments) during the calendar year for services of employees	Amount paid	
<b>2</b> Exempt payments. (Explain each exemption shown, attach additional sheets if necessary.) <b>▶</b>	2	
<b>3</b> Payments of more than \$7,000 for services. Enter only the amounts over the first \$7,000 paid to each employee. Do not include payments from line 2. Do not use the state wage limitation.	3	
<b>4</b> Total exempt payments (add lines 2 and 3).	4	
<b>5</b> Total taxable wages (subtract line 4 from line 1).	5	
<b>6</b> Additional tax resulting from credit reduction for unrepaid advances to the state of Michigan. Enter the wages included on line 5 above for that state and multiply by the rate shown. (See the instructions.) Enter the credit reduction amount here and in Part II, line 2, or Part III, line 5: Michigan wages $\times .008 =$	6	

**Part II Tax Due or Refund** (Complete if you checked the "yes" boxes in both questions A and B and did not check the box in C.)

1	FUTA tax. Multiply the wages in Part I, line 5, by .008 and enter here.	1	
2	Enter amount from Part I, line 6	2	
3	Total FUTA tax (add lines 1 and 2)	3	
4	Total FUTA tax deposited for the year, including any overpayment applied from a prior year	4	
5	Balance due (subtract line 4 from line 3). This should be \$100 or less. Pay to the Internal Revenue Service.	5	
6	Overpayment (subtract line 3 from line 4). Check if it is to be: <input type="checkbox"/> Applied to next return, or <input type="checkbox"/> Refunded	6	

**Part III Tax Due or Refund** (Complete if you checked the "No" box in either question A or B or you checked the box in C.)

1	Gross FUTA tax. Multiply the wages in Part I, line 5, by .062.	1	
2	Maximum credit. Multiply the wages in Part I, line 5, by .054	2	
3	Computation of tentative credit		

(a) Name	(b) State reporting number(s) of state contribution returns	(c) Taxable wages (as defined in state act)	(d) State experience rate		(e) State experience rate	(f) Contributions if rate had been 5.4% (col. (c) x .054)	(g) Contributions payable at experience rate (col. (c) x col. (e))	(h) Additional credit (col. (f) minus col. (g)) (if 0 or less, enter 0)	(i) Contributions actually paid to the state
			From	To					
3a Totals									

3b	Total tentative credit (add line 3a, columns (h) and (i) only—see instructions for limitations on late payments)	
4	Credit. Enter the smaller of the amount in Part III, line 2, or line 3b	4
5	Enter the amount from Part I, line 6	5
6	Credit allowable (subtract line 5 from line 4). (If zero or less, enter 0.)	6
7	Total FUTA tax (subtract line 6 from line 1)	7
8	Total FUTA tax deposited for the year, including any overpayment applied from a prior year	8
9	Balance due (subtract line 8 from line 7). This should be \$100 or less. Pay to the Internal Revenue Service.	9
10	Overpayment (subtract line 7 from line 8). Check if it is to be: <input type="checkbox"/> Applied to next return, or <input type="checkbox"/> Refunded	10

**Part IV Record of Quarterly Federal Tax Liability for Unemployment Tax** (Do not include state liability)

Quarter	First	Second	Third	Fourth	Total for year
Liability for quarter					

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete, and that no part of any payment made to a state unemployment fund claimed as a credit was or is to be deducted from the payments to employees.

Signature \_\_\_\_\_ Title (Owner, etc.) \_\_\_\_\_ Date \_\_\_\_\_

### 5-11 IRS Form W-2 Wage and Tax Statement

1 Control number <b>22222</b>		For Official Use Only OMB No. 1545-0008		6 Statutory employee <input type="checkbox"/> Deceased <input type="checkbox"/> Pension plan <input type="checkbox"/> Legal rep. <input type="checkbox"/> 942 emp. <input type="checkbox"/> Subtotal <input type="checkbox"/> Deferred compensation <input type="checkbox"/> Void <input type="checkbox"/>	
2 Employer's name, address, and ZIP code				7 Allocated tips	
				8 Advance EIC payment	
				9 Federal income tax withheld	
				10 Wages, tips, other compensation	
3 Employer's identification number		4 Employer's state I.D. number		11 Social security tax withheld	
				12 Social security wages	
5 Employee's social security number				13 Social security tips	
				14 Medicare wages and tips	
19a Employee's name (first, middle, last)				15 Medicare tax withheld	
				16 Nonqualified plans	
				17 See instrs. for Form W-2	
				18 Other	
19b Employee's address and ZIP code					
20		21		22 Dependent care benefits	
				23 Benefits included in box 10	
24 State income tax		25 State wages, tips, etc.		26 Name of state	
				27 Local income tax	
				28 Local wages, tips, etc.	
				29 Name of locality	

Copy A For Social Security Administration Department of the Treasury—Internal Revenue Service

Form **W-2 Wage and Tax Statement 1991**

IRS Ass. 13-2578003

For Paperwork Reduction Act Notice, see separate instructions.

**Do NOT Cut or Separate Forms on This Page**

1 Control number <b>22222</b>		For Official Use Only OMB No. 1545-0008		6 Statutory employee <input type="checkbox"/> Deceased <input type="checkbox"/> Pension plan <input type="checkbox"/> Legal rep. <input type="checkbox"/> 942 emp. <input type="checkbox"/> Subtotal <input type="checkbox"/> Deferred compensation <input type="checkbox"/> Void <input type="checkbox"/>	
2 Employer's name, address, and ZIP code				7 Allocated tips	
				8 Advance EIC payment	
				9 Federal income tax withheld	
				10 Wages, tips, other compensation	
3 Employer's identification number		4 Employer's state I.D. number		11 Social security tax withheld	
				12 Social security wages	
5 Employee's social security number				13 Social security tips	
				14 Medicare wages and tips	
19a Employee's name (first, middle, last)				15 Medicare tax withheld	
				16 Nonqualified plans	
				17 See instrs. for Form W-2	
				18 Other	
19b Employee's address and ZIP code					
20		21		22 Dependent care benefits	
				23 Benefits included in box 10	
24 State income tax		25 State wages, tips, etc.		26 Name of state	
				27 Local income tax	
				28 Local wages, tips, etc.	
				29 Name of locality	

Copy A For Social Security Administration Department of the Treasury—Internal Revenue Service

Form **W-2 Wage and Tax Statement 1991**

IRS Ass. 13-2578003

For Paperwork Reduction Act Notice, see separate instructions.

**Do NOT Cut or Separate Forms on This Page**

## 5-12 IRS Form W-3 Transmittal of Income and Tax Statements

**DO NOT STAPLE**

1 Control number 223333		For Official Use Only OMB No. 1545-0008		
Kind of Payer ➔	2 941 Military	3 942	4 943 Medicare gov't emp.	5 Total number of statements
	6 Establishment number	7 Indicated tips	8 Employer's EIN	
9 Federal income tax withheld	10 Wages, tips, and other compensation	11 Social security tax withheld		
12 Social security wages	13 Social security tips	14 Medicare wages and tips		
15 Medicare tax withheld	16 Nonqualified plans	17 Deferred compensation		
18 Employer's identification number	19 Other EIN used this year			
20 Employer's name	21 Independent care benefits			
	22 Adjusted total social security wages and tips			
	23 Adjusted total Medicare wages and tips			
	24 Income tax withheld by third-party payer			
25 Employer's address and ZIP code (If available, place label over Boxes 18 and 20)				

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and, to the best of my knowledge and belief, they are true, correct, and complete.

Signature \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

Telephone number (optional) \_\_\_\_\_

### Form **W-3** Transmittal of Income and Tax Statements 1991

Department of the Treasury  
Internal Revenue Service

Please return this entire page with the accompanying Forms W-2 to the Social Security Administration address for your state as listed below. **Household employers filing Forms W-2 for household employees should send the forms to the Albuquerque Data Operations Center.**

**Note:** Extra postage may be necessary if the report you send contains more than a few pages or if the envelope is larger than letter size. Do NOT order forms from the addresses listed below. You may order forms by calling 1-800-829-3676.

If your legal residence, principal place of business, office or agency is located in

Use this address

Alaska, Arizona, California, Colorado, Hawaii, Idaho, Iowa, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wisconsin, Wyoming

Social Security Administration  
Sacramento Data Operations Center  
Sacramento, CA 95811

Alabama, Arkansas, Florida, Georgia, Illinois, Kansas, Louisiana, Mississippi, New Mexico, Oklahoma, South Carolina, Tennessee, Texas

Social Security Administration  
Albuquerque Data Operations Center  
Albuquerque, NM 87180

Connecticut, Delaware, District of Columbia, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia

Social Security Administration  
Wilkes-Barre Data Operations Center  
Wilkes-Barre, PA 18769

If you have no legal residence or principal place of business in any state

Social Security Administration  
Wilkes-Barre Data Operations Center  
Wilkes-Barre, PA 18769

**Paperwork Reduction Act Notice.**—We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us this information. We need it to ensure that taxpayers are complying with these laws and to allow us to figure and collect the right amount of tax.

The time needed to complete and file this form will vary depending on individual circumstances.

The estimated average time is 27 minutes, if you have comments concerning the accuracy of this time estimate

or suggestions for making this form more simple, we would be happy to hear from you. You can write to both the Internal Revenue Service, Washington, DC 20224, Attention: IRS Reports Clearance Officer T:FP; and the Office of Management and Budget, Paperwork Reduction Project (1545-0008), Washington, DC 20503. Do NOT send the form to either of these offices. Instead, see the chart above for information on where to send this form.

### 5-13 Form MW-5 Employers Payroll/Withholding Tax Report

**1991 EMPLOYERS  
PAYROLL / WITHHOLDING TAX REPORT  
4th Quarter MW-5**

1. Federal ID Number	7. Payroll Tax Gross Wages Paid this Quarter ▶
2. State ID Number	8. Payroll Tax this Quarter GROSS X .0028 ▶
3. Quarter Ending <b>DEC 31, 1991</b>	9. Adjustments to a Previous Quarter. Explain on back of this form ▶
4. I.P.N.	10. Amount Paid With Adjustments (Sum of lines 8 & 9) ▶
5. If you are no longer required to file Montana withholding and/or payroll tax and were your account cancelled, enter this cancel date.	11. Withholding Gross Wages paid this Quarter ▶
6. Total Number Employees	12. State Income Tax Withheld this Quarter ▶
	13. Adjustments to a Previous Quarter. Explain on back of this form ▶
	14. Amount Paid With Adjustments (Sum of lines 12 & 13) ▶
	15. Total amount paid with this return (Sum of lines 10 & 14) ▶

**DUE DATE  
JAN 31, 1992**

Change in Name or Address   
(explain on back)

DATE \_\_\_\_\_ SIGNATURE \_\_\_\_\_ TITLE (owner, etc.) \_\_\_\_\_ TELEPHONE NUMBER \_\_\_\_\_

Make Check Payable to STATE TREASURER and Return with this Copy to: DEPT. OF REVENUE, Box 5835, Helena, Montana 59604-5835



### 5-14 MW-10 Annual Reconciliation

**1991  
ANNUAL RECONCILIATION  
(WITHHOLDING TAX ONLY)**

**1991 MW-10**

**DUE DATE February 28, 1992**

ABOVE SPACE FOR DEPARTMENT USE ONLY

1. Federal Employer ID Number		5. Total Number Wage Statements (W-2) Attached		<b>MONTANA TAX WITHHELD AND PAID THIS YEAR</b>	
2. State Employer ID Number		6. Total Montana Tax Withheld this year as shown on attached statement AND adding machine tape or computer record total. (A)			
3. Year Ending <b>1991</b>		4. If you are no longer required to file Montana withholding and/or payroll tax and want your account cancelled, enter final payroll date.  <b>NOTE:</b> If there is a Difference between the Amounts shown on (A) and (B) <b>EXPLAIN</b> fully on an attached sheet.		Period Ending June 30	
DATE _____ SIGNATURE _____ TITLE (owner, etc.) _____ TELEPHONE NUMBER _____				Period Ending Sept 30	
				Period Ending December 31	
				7. Adjustments ATTACH EXPLANATION	
				8. (B) TOTAL	
				Change in Name or Address <input type="checkbox"/> (explain on back)	

Return This Copy with W-2 Statements Attached to: DEPARTMENT OF REVENUE, Box 5835, Helena, Montana 59604-5835

**ANNUAL**

5-15 Form UI-5 Employer's Quarterly Wage Report

State of Montana Department of Labor and Industry Unemployment Insurance Division Contributions Bureau P.O. Box 1728, Helena, MT 59624-1728 Telephone No. (406) 444-3834		<b>EMPLOYER'S          QUARTERLY WAGE          REPORT</b>			DO NOT WRITE IN THIS SPACE AGENCY USE ONLY	
Annual Taxable Wage Base Each Employee	Quarter/Year	Due Date	Federal ID. No.	Contr. Rate	Amount Debit or Credit _____	
\$				AFT Rate		
				Total Rate		
UI Account No. _____					<b>IMPORTANT</b> For your protection, verify your Federal ID No. at the top of this report. If it is in error, please show correct number here: 3. Complete <b>ONLY</b> if there has been any change in name, mailing address, business location or ownership. Enter effective date of change.	
COMPUTATION OF PAYMENT (See instructions on Back of Employer Copy)					Business Name _____	
1. Total Wages Paid This Quarter					Mailing Address _____ Business Location _____	
2. Total Excess Wages This Quarter						
3. Taxable Wages (Item 1 Minus Item 2)						
4. Taxes Due (Item 3 Times Total Rate)						
5. Penalty and Interest Due on Item 4 (See instructions)						
6. Adjustments (Please Attach an Explanation)						
7. NET PAYMENT						
MAKE CHECK PAYABLE TO: UNEMPLOYMENT INSURANCE DIVISION I CERTIFY THAT THE INFORMATION ON THIS REPORT AND ATTACHMENTS IS TRUE AND CORRECT.					CEASED OPERATIONS: <input type="checkbox"/> Yes <input type="checkbox"/> No      Effective Date _____ Name and Address of New Owner _____	
Signature - Taxpayer			Title	Telephone Number	3. Total No. of employees listed _____ 4. No. of persons on payroll during week which includes the twelfth of the month: 1st Mo.      2nd Mo.      3rd Mo.	
Signature - Preparer			Title	Telephone Number		
Employee's Social Security Number	Name of Employee	Number of Weeks Worked	Total Wages Paid This Quarter	Excess Wages This Quarter		
TOTAL WAGES AND EXCESS THIS PAGE →						

STATE CHECK RETURN

5-16 IRS Form 1099-MISC Miscellaneous Income

U.S. GPO: 1990-265-244

U.S. GPO: 1990-265-244

U.S. GPO: 1990-265-244

9595     VOID     CORRECTED

Type or machine print PAYER'S name, street address, city, state, and ZIP code		1 Rents	OMB No. 1545-0115  <b>1991</b>	<b>Miscellaneous Income</b>
		\$		
		2 Royalties		
PAYER'S Federal identification number    RECIPIENT'S identification number		3 Prizes, awards, etc.	<b>Copy A For Internal Revenue Service Center</b>  File with Form 1096.  For Paperwork Reduction Act Notice and instructions for completing this form, see instructions for Forms 1099, 1098, 5498, and W-2G.	
		\$		
Type or machine print RECIPIENT'S name		4 Federal income tax withheld	5 Fishing boat proceeds	<b>Form 1099-MISC</b>
		\$	\$	
Street address (including apt. no.)		6 Medical and health care payments	7 Nonemployee compensation	Department of the Treasury - Internal Revenue Service
		\$	\$	
City, state, and ZIP code		8 Substitute payments in lieu of dividends or interest	9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	<b>Do NOT Cut or Separate Forms on This Page</b>
		\$	\$	
Account number (optional)		10 Crop insurance proceeds	11 State income tax withheld	Department of the Treasury - Internal Revenue Service
		\$	\$	
2nd TIN Not. <input type="checkbox"/>		12 State/Payer's state number		

Form 1099-MISC    Do NOT Cut or Separate Forms on This Page    Department of the Treasury - Internal Revenue Service

9595     VOID     CORRECTED

Type or machine print PAYER'S name, street address, city, state, and ZIP code		1 Rents	OMB No. 1545-0115  <b>1991</b>	<b>Miscellaneous Income</b>
		\$		
		2 Royalties		
PAYER'S Federal identification number    RECIPIENT'S identification number		3 Prizes, awards, etc.	<b>Copy A For Internal Revenue Service Center</b>  File with Form 1096.  For Paperwork Reduction Act Notice and instructions for completing this form, see instructions for Forms 1099, 1098, 5498, and W-2G.	
		\$		
Type or machine print RECIPIENT'S name		4 Federal income tax withheld	5 Fishing boat proceeds	<b>Form 1099-MISC</b>
		\$	\$	
Street address (including apt. no.)		6 Medical and health care payments	7 Nonemployee compensation	Department of the Treasury - Internal Revenue Service
		\$	\$	
City, state, and ZIP code		8 Substitute payments in lieu of dividends or interest	9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	<b>Do NOT Cut or Separate Forms on This Page</b>
		\$	\$	
Account number (optional)		10 Crop insurance proceeds	11 State income tax withheld	Department of the Treasury - Internal Revenue Service
		\$	\$	
2nd TIN Not. <input type="checkbox"/>		12 State/Payer's state number		

Form 1099-MISC    Do NOT Cut or Separate Forms on This Page    Department of the Treasury - Internal Revenue Service

9595     VOID     CORRECTED

Type or machine print PAYER'S name, street address, city, state, and ZIP code		1 Rents	OMB No. 1545-0115  <b>1991</b>	<b>Miscellaneous Income</b>
		\$		
		2 Royalties		
PAYER'S Federal identification number    RECIPIENT'S identification number		3 Prizes, awards, etc.	<b>Copy A For Internal Revenue Service Center</b>  File with Form 1096.  For Paperwork Reduction Act Notice and instructions for completing this form, see instructions for Forms 1099, 1098, 5498, and W-2G.	
		\$		
Type or machine print RECIPIENT'S name		4 Federal income tax withheld	5 Fishing boat proceeds	<b>Form 1099-MISC</b>
		\$	\$	
Street address (including apt. no.)		6 Medical and health care payments	7 Nonemployee compensation	Department of the Treasury - Internal Revenue Service
		\$	\$	
City, state, and ZIP code		8 Substitute payments in lieu of dividends or interest	9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	<b>Do NOT Cut or Separate Forms on This Page</b>
		\$	\$	
Account number (optional)		10 Crop insurance proceeds	11 State income tax withheld	Department of the Treasury - Internal Revenue Service
		\$	\$	
2nd TIN Not. <input type="checkbox"/>		12 State/Payer's state number		

Form 1099-MISC    Do NOT Cut or Separate Forms on This Page    Department of the Treasury - Internal Revenue Service

5-17 IRS Form 1096 Annual Summary and Transmittal of U.S. Information Returns

DO NOT STAPLE 6969 CORRECTED

Form <b>1096</b> Department of the Treasury Internal Revenue Service	<b>Annual Summary and Transmittal of U.S. Information Returns</b>	OMB No 1545-0108  <span style="font-size: 24pt; font-weight: bold;">1991</span>										
Type or machine print FILER'S name (or attach label)												
Street address (room or suite number)												
City, state, and ZIP code												
If you are not using a preprinted label, enter in Box 1 or 2 below the identification number you used as the filer on the information returns being transmitted. Do not fill in both Boxes 1 and 2.		Name of person to contact if IRS needs more information  Telephone number ( )										
		<b>For Official Use Only</b> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>										
1 Employer identification number	2 Social security number	3 Total number of documents										
		4 Federal income tax withheld \$										
		5 Total amount reported with this Form 1096 \$										
Check only one box below to indicate the type of form being transmitted. If this is your FINAL return, check here.												
<input type="checkbox"/> W-2G 32	<input type="checkbox"/> 1098 81	<input type="checkbox"/> 1099-A 80	<input type="checkbox"/> 1099-B 79	<input type="checkbox"/> 1099-DIV 91	<input type="checkbox"/> 1099-G 86	<input type="checkbox"/> 1099-INT 92	<input type="checkbox"/> 1099-MISC 95	<input type="checkbox"/> 1099-OID 96	<input type="checkbox"/> 1099-PATR 97	<input type="checkbox"/> 1099-R 98	<input type="checkbox"/> 1099-S 75	<input type="checkbox"/> 5498 28

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and, to the best of my knowledge and belief, they are true, correct, and complete.

Signature \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

**Please return this entire page to the Internal Revenue Service. Photocopies are NOT acceptable.**

**Instructions**

**Purpose of Form.**—Use this form to transmit paper Forms 1099, 1098, 5498, and W-2G to the Internal Revenue Service. **DO NOT USE FORM 1096 TO TRANSMIT MAGNETIC MEDIA.** See Form 4804, Transmittal of Information Returns Reported on Magnetic Media.

**Use of Preprinted Label.**—If you received a preprinted label from IRS with Package 1099, place the label in the name and address area of this form inside the brackets. Make any necessary changes to your name and address on the label. However, do not use the label if the taxpayer identification number (TIN) shown is incorrect. **Do not prepare your own label. Use only the IRS-prepared label that came with your Package 1099.**

If you are not using a preprinted label, enter the filer's name, address (including room, suite, or other unit number), and TIN in the spaces provided on the form.

**Filer.**—The name, address, and TIN of the filer on this form must be the same as those you enter in the upper left area of Form 1099, 1098, 5498, or W-2G. A filer includes a payer, a recipient of mortgage interest payments, a broker, a barter exchange, a person reporting real estate transactions, a trustee or issuer of an individual retirement arrangement (including an IRA or SEP), and a lender who acquires an interest in secured property or who has reason to know that the property has been abandoned.

**Transmitting to IRS.**—Group the forms by form number and transmit each group with a separate Form 1096. For example, if you must file both Forms 1098 and Forms 1099-A, complete one Form 1096 to transmit your Forms 1098 and another Form 1096 to transmit your Forms 1099-A. Also submit a separate Form 1096 for each type of corrected form.

**Box 1 or 2.**—Complete only if you are not using a preprinted IRS label. *Individuals not in a trade or business must enter their social security number in Box 2; sole proprietors and all others must enter their employer identification number in Box 1.* However, sole proprietors who are not required to have an employer identification number must enter their social security number in Box 2.

**Box 3.**—Enter the number of forms you are transmitting with this Form 1096. Do not include blank or voided forms or the Form 1096 in your total. Enter the number of correctly completed forms, not the number of pages, being transmitted. For example, if you send one page of three-to-a-page Forms 5498 with a Form 1096 and you have correctly completed two Forms 5498 on that page, enter 2 in Box 3 of Form 1096.

**Box 4.**—Enter the total Federal income tax withheld shown on the forms being transmitted with this Form 1096.

**Box 5.**—No entry is required if you are filing Form 1099-A or 1099-G. For all other forms, enter the total of the amounts from the specific boxes of the forms listed below:

Form W-2G	Box 1
Form 1098	Boxes 1 and 2
Form 1099-B	Boxes 2 and 3
Form 1099-DIV	Boxes 1a, 5, and 6
Form 1099-INT	Boxes 1 and 3
Form 1099-MISC	Boxes 1, 2, 3, 5, 6, 7, 8, and 10
Form 1099-OID	Boxes 1 and 2
Form 1099-PATR	Boxes 1, 2, 3, and 5
Form 1099-R	Box 1
Form 1099-S	Box 2
Form 5498	Boxes 1 and 2

For Paperwork Reduction Act Notice, see the separate instructions for Forms 1099, 1098, 5498, and W-2G. Form 1096 (1991)

**APPENDIX B**

**SAMPLE DOCUMENTS SECTION**

**ARTICLES OF INCORPORATION**

**OF**

**MONTANA STITCHERY, INC.**

I, the undersigned, desiring to form a corporation for the purpose hereinafter set forth, do hereby, pursuant to and in conformity with the laws of the State of Montana, promulgate and adopt the following Articles of Incorporation:

**I.**

The name of the corporation shall be:

Montana Stitchery, Inc.

**II.**

The period of duration of this corporation shall be perpetual.

**III.**

The purposes for which this corporation is organized are as follows:

(a) To engage in the design and manufacturing of original fabric or leather bags, cases, packs, and any other containers or products, and to market these products to the public, wholesalers, and/or retailers.

(b) To provide design and manufacturing services to clients for the purpose of manufacturing the clients products for their subsequent marketing by said client.

(c) To acquire by purchase, lease, rental or otherwise, lands and interests in lands, improved or unimproved, and own, hold, improve, develop, plat, subdivide, rent, lease, operate and manage any real estate so acquired, and to erect or cause to be erected on any lands owned, held or occupied by the corporation, buildings, or other structures, with their appurtenances, and to manage, operate, rent, lease, rebuild, enlarge, alter or improve any buildings or other structures now or hereafter erected on any land so owned, held, or occupied, and any facilities, stores, shops, suites, rooms or parts of any buildings or other structures at any time owned, leased, rented or otherwise held by the company, and to invest, trade, deal in, sell, convey, encumber or otherwise dispose of any lands or interest in lands and any buildings and other structures.

(d) To engage in conduct and carry on a general mercantile business, at wholesale or retail or both; to acquire by purchase, lease, manufacture or otherwise, goods, commodities, wares, merchandise and personal property of every kind and description, and to own, use, trade, deal in, lease, sell, assign, transfer, encumber, pledge and otherwise utilize, invest in and dispose of the same.

(e) To engage in any and all manufacturing, merchandising, construction, service or transportation business of any kind or character whatsoever, and to that end, to acquire, hold, own, improve and dispose of any and all property, assets, stocks, bonds, rights, privileges and franchises, of any and every kind.

(f) To transact and carry on any and all other business which may be necessary, incidental or proper to the exercise of any or all of the aforesaid purposes of the corporation or which may tend directly or indirectly to effectuate the aforesaid objects or any of them, and to facilitate the transaction by the corporation of such said businesses or the transaction of any business which may be calculated directly or indirectly to enhance the value of the assets and the properties of the corporation.

(g) To provide and furnish services of every kind and description, whether with compensation or otherwise, and to grant to other persons or corporations the right or privilege to carry on any kind of business or businesses on any premises or properties of the company, upon such terms and conditions as this company shall prescribe.

(h) To buy, sell, deal in, exchange, encumber, pledge and discount any and all kinds of bills, notes, accounts, contracts, bonds, negotiable instruments, commercial paper and other obligations whatsoever, secured or unsecured, and to engage in the discount and finance business generally and all businesses pertaining and incidental thereto; to lend and advance money or give credit to such persons, firms, co-partnerships, societies or corporations, and on such terms as may seem expedient, and to give guarantees or become security for any such person; but nothing in these Articles of Incorporation shall be construed to give this corporation banking powers.

(i) To acquire any business, good will, rights, property and assets of all kinds, and to assume the whole or any part of the liabilities of any person, firm, association or corporation engaged in any business which this corporation is authorized to carry on, upon such terms and conditions as may be agreed on, and to pay for the same in cash, stock, bonds, debentures, notes, obligations, evidences of indebtedness or other securities of this company; to hold or in any manner dispose of the whole or any part of the property so acquired, to operate or conduct in any lawful manner the whole or any part of any business so

acquired and to exercise all the powers necessary or convenient in, or connected with the conduct and management of such business.

(j) To make and perform contracts of any and every kind and description; to do everything necessary, suitable or proper for the accomplishment of any of the purposes, or the attainment of any of the objects or the furtherance of any of the powers herein set forth, either alone or in association with other corporations, firms or individuals, and to do every act or acts, thing or things, incidental or appertaining to or growing out of or connected with the aforesaid purposes, objects or powers, or any thereof, provided the same not be inconsistent with the laws under which this corporation is organized.

(k) To purchase or otherwise acquire, and to own, hold, sell, assign, transfer, encumber, pledge, or otherwise dispose of or deal with any bonds or other securities or evidences of indebtedness created or issued by itself or any other corporation or association, and any shares of the capital stock or itself or any other corporation or association, and while owner thereof to exercise all the rights, powers and privileges of ownership.

(l) To the extent authorized by law, to use and apply its capital, capital surplus, other surplus, earnings or accumulated profits to the purchase or acquisition of property, and the purchase or acquisition of its own capital stock from time to time, and to such extent and in such manner, and upon such terms as its Board of Directors shall determine.

(m) To borrow money for the business of the company and for the purpose of raising money necessary for the transaction of the business of the corporation or for any of its purposes, or the acquisition of property, or to secure any indebtedness of said company, or for any other purpose, to issue bonds, debentures, notes or other obligations or evidences of indebtedness, and to secure the same by mortgage, security interest or pledge of any part or all the property of the company, whether real or personal, or both.

(n) To issue bonds, debentures or other obligations convertible into shares of any class, in the amounts and on such terms and conditions as may be provided by resolutions of the Board of Directors.

(o) To the extent authorized by law, to declare and pay dividends out of depletion reserves, and to make distributions to its shareholders out of capital surplus, in such amounts and on such terms and conditions as may be provided by resolutions of the Board of Directors.

(p) The foregoing clauses shall be construed as both objects and powers; and it is hereby expressly provided that the foregoing enumeration of specific powers



shall not be construed as limiting or restricting in any manner the powers of the company.

**IV.**

The aggregate number of shares which this corporation shall have authority to issue is fifty thousand (500,000). Such shares are to consist of one class only, and all of such shares are and shall be \$1.00 par value.

**V.**

The address of the initial registered office of this corporation is 301 West Main Street, Central City, Montana 59701, and the name of the initial registered agent of this corporation at such address is Timothy Leader.

**VI.**

The number of Directors constituting the initial Board of Directors of this corporation shall be three. The name and addresses of the persons who are to serve as Directors until the first annual meeting of shareholders or until their successors are elected and qualify are as follows:

Timothy Leader	Jeffery Workman	Innus N. Vestor
301 West Main Street	1435 White Avenue	4500 Prestige Ave
Central City, MT 59991	Central City, MT 59991	Billings, MT 59101

VII.

The name and address of the incorporator are as follows:

Timothy Leader  
301 West Main Street  
Central City, MT 59991

WITNESS my hand this \_\_\_\_\_ day of \_\_\_\_\_, 1990.

\_\_\_\_\_  
Incorporator

STATE OF MONTANA )

ss:

County of Columbia )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1990, before me, \_\_\_\_\_, a Notary Public for the State of Montana, personally appeared Timothy Leader, known to me to be the person whose name is subscribed to the within instrument, and as acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in the certificate above written.

(NOTARY SEAL)

\_\_\_\_\_  
Notary Public for the State of Montana  
Residing at Central City, Montana  
My commission expires: \_\_\_\_\_

**BY-LAWS OF  
MONTANA STITCHERY, INC.**

**ARTICLE I  
SHAREHOLDERS**

**Section 1. PLACE OF HOLDING MEETINGS.** All meetings of the shareholders shall be held at the office of the corporation in the State of Montana.

**Section 2. VOTING.** Shareholders having the right to vote shall be entitled to vote at meetings either in person or by proxy appointed by instrument in writing subscribed by the shareholder or by his duly appointed attorney. Each shareholder shall be entitled to one vote for each share of stock registered in his name on the books of the corporation; provided, however, that at each meeting after the first meeting of the shareholders no stock shall be voted which shall have been transferred on the books of the corporation within twenty days next preceding such meeting.

**Section 3. QUORUM.** Except as provided by law, any number of shareholders together holding a majority of the stock issued and outstanding and entitled to vote thereat, who shall be present either in person or by proxy at any meeting duly called, shall constitute a quorum for the transaction of business.

**Section 4. ADJOURNMENT OF MEETING.** If less than a quorum shall be in attendance at any time for which the meeting shall be called, the meeting may, after the lapse of a least an hour, be adjourned from time to time by a majority vote of the shareholders present or represented and entitled to vote thereat, until a quorum be present.

**Section 5. ANNUAL ELECTION OF DIRECTORS.** The annual meeting of shareholders for the election of directors and the transaction of other business shall be held on the 15th day of January of each year, at the hour of 9:00 a.m.: provided, that if such meeting date shall fall upon a legal holiday, then the meeting shall be held upon the next succeeding business day.

**Section 6. SPECIAL MEETINGS, HOW CALLED.** Special meetings of the shareholders for any purpose or purposes may be called by the President, and shall be called upon the written request of a majority of the directors or of a majority in interest of the shareholders entitled to vote.

**Section 7. MANNER OF VOTING.** At all meetings of shareholders all questions, except as otherwise expressly provided by statute or by these by-laws, shall be determined by a majority vote of the shares held by shareholders present in person or by proxy and entitled to vote; provided, however, that any qualified voter may demand a vote by ballot; and in that case, such vote shall immediately be taken.

**Section 8. NOTICE OF MEETING.** Written or printed notice, stating the time and place of meeting, and in the case of special meetings, the general nature of the business to be considered, shall be given by the Secretary to each shareholder entitled to vote at the meeting, by delivering the same in person or by depositing the same in the United States mail, properly stamped and prepaid and addressed to said shareholder at his last post office address, as shown by the records of the corporation, at least ten (10) days before the meeting. No business other than that stated in the notice of a special meeting shall be transacted at such special meeting without the unanimous consent of all the shareholders entitled to vote at such meeting.

**Section 9. DELAYED ANNUAL MEETING.** Whenever the annual meeting of shareholders for the

election of directors shall for any reason not be held on the date or at the time in these By-Laws specified, then the President or a majority of the directors may at any time there-after and before the next annual meeting, call a delayed annual meeting of the shareholders for the election of directors and the transaction of other proper business. Notice of any such delayed annual meeting shall be given as provided in Article I, Section 8, of these By-Laws.

## **ARTICLE II**

### **DIRECTORS**

**Section 1. NUMBER OF DIRECTORS.** The number of directors shall be three.

**Section 2. CHANGE IN NUMBER OF DIRECTORS.** The number of directors may from time to time be changed by amendment of Article II, Section 1 of these By-Laws.

**Section 3. FIRST MEETING.** The newly elected directors may hold their first meeting for the purpose of organization and the transaction of business, if a quorum be present, immediately after the annual meeting of the shareholders, without notice; or the time and place of such meeting may be fixed by consent in writing of all the directors.

**Section 4. ELECTION OF OFFICERS.** At such meeting the directors shall elect a President, one or more Vice-Presidents, a Secretary and a Treasurer. The President and Vice-Presidents shall be directors. Each officer shall hold office until the next annual election of officers, and until his successor is elected and qualified. In case such successor shall not be elected at such annual organization meeting, he may be chosen at any subsequent meeting of directors, or by unanimous resolution of the directors acting without a meeting.

**Section 5. REGULAR MEETINGS.** Regular meetings of the directors shall be held without notice on the 1st of each month, at the hour of 9:30 o'clock A.M.; provided, that if any such meeting date shall fall upon a legal holiday, then the meeting shall be held upon the next succeeding business day.

**Section 6. SPECIAL MEETINGS.** Special meetings of the directors may be called by the President or Secretary on his own initiative, and shall be called on the written request of any two directors; and two days actual notice thereof shall be given to each director.

**Section 7. QUORUM.** A majority of the directors shall constitute a quorum for the transaction of business.

**Section 8. PLACE OF MEETING.** The directors may hold meetings and have one or more offices, and keep the books of the corporation outside of the State of Montana, at any office or offices of the corporation, or at any other place as they may from time to time by resolution determine.

**Section 9. GENERAL POWERS OF DIRECTORS.** The Board of Directors shall have oversight over the management of the business of the corporation, and, subject to the restrictions imposed by law, by the articles of incorporation, or by these By-Laws, may exercise all the powers of the corporation.

**Section 10. SPECIFIC POWERS OF DIRECTORS.** Without prejudice to such general powers it is hereby expressly declared that the directors shall have the following powers, to-wit:

(a) To make and change regulations, not inconsistent with these By-Laws, for the management of the corporation's business and affairs.

- (b) To adopt and alter a common seal of the corporation.
- (c) To purchase or otherwise acquire for the corporation any property, rights, or privileges which the corporation is authorized to acquire, and dispose of or otherwise deal with the same.
- (d) To pay for the property purchased for the corporation either wholly or partly in money, stock, bonds, debentures or other securities of the corporation.
- (e) To fix and from time to time change the consideration for which shares of the capital stock of the corporation may be issued and sold.
- (f) To borrow money and to make and issue notes, bonds and other negotiable and transferable instruments, mortgages, deeds of trust and trust agreements, and to sell, lease, exchange or otherwise dispose of property and assets, with or without the good will, of the corporation, upon such conditions, and for such consideration, which may consist in whole or in part or money or property, real and personal, including shares of any other corporation, domestic or foreign, as shall be authorized by the Board of Directors, and to do every act and thing necessary to effectuate the said powers and either and all thereof.
- (g) To remove any officer at any time with or without cause and with or without notice, and in their discretion, from time to time, to devolve the powers and duties of any officer upon any other person for the time being.
- (h) To appoint and remove or suspend such subordinate officers, agents, or factors as they may deem necessary and to determine their duties, and to fix, and from time to time change, their salaries or remuneration, and to require security as and when they think fit.
- (i) To confer upon any officer of the company the power to appoint, remove and suspend subordinate officers, agents and factors.
- (j) To determine who shall be authorized on the corporation's behalf to make and sign bills, notes, acceptances, endorsements, checks, releases, receipts, contracts and other instruments.
- (k) To determine who shall be entitled to vote in the name and behalf of the corporation upon, or to assign and transfer, any shares of stock, bonds, or other securities of other corporations, or of itself, held by this corporation.
- (l) To delegate any of the powers of the Board in relation to the ordinary business of the corporation to any officer or officers, to be exercised between meetings of the directors.
- (m) To call special meetings of the shareholders for any purpose.

**Section 11. COMPENSATION OF DIRECTORS.** Directors shall not receive any stated salary for their services as directors, but by resolution of the board a fixed fee and expenses of attendance may be allowed for attendance at each meeting, Nothing herein contained shall be construed to preclude any directors from serving the corporation in any other capacity as an officer, agent or otherwise, and receiving compensation therefor.

**Section 12. INDEMNIFICATION OF DIRECTORS AND OFFICERS.** Each director and each officer of this corporation, and each person who may have served at the request of this corporation as a director or officer, or both, of another corporation in which this corporation owns or may own shares of capital stock or of which it is or may be a creditor, shall in consideration of his services be indemnified, whether

then in office or not, against any and all claims, liabilities, expenses and costs reasonably incurred by him in connection with the defense, compromise or settlement of any action, suit or proceedings, civil or criminal, in which he is made a party by reason of being or having been such director or officer, or by reason of any act or omission to act as such director or officer, provided that he shall not have been derelict in the performance of his duty as to the matter or matters in respect of which such claim is asserted or such action, suit or proceeding brought. the foregoing right of indemnification shall not be exclusive of any other rights to which any officer or director may be entitled as a matter of law.

### ARTICLE III

#### OFFICERS

Section 1. The officers of the corporation, in addition to the directors, shall be a President, one or more Vice-Presidents, a Secretary and a Treasurer; one person may hold the offices of Secretary and Treasurer, or Vice-President and Secretary, or Vice-President and Treasurer.

Section 2. **PRESIDENT.** The President shall be the chief executive and administrative officer of the corporation. He shall when present preside at all meetings of the directors, and act as temporary chairman at and call to order all meetings of the shareholders; he shall have power to call special meetings of the shareholders and of the directors for any purpose or purposes, to appoint and discharge, subject to approval of the directors, the employees and agents of the company and fix their compensation, and to make and sign contracts and agreements in the name and behalf of the corporation, and while the directors are not in session he shall have general management and control of the business and affairs of the corporation; he shall see that the books, reports, statements and certificates required by the statutes of Montana or those of any other jurisdiction in which business is transacted by the corporation, are properly kept, made and filed according to law; and he shall generally do and perform all acts incident to the office of the President or which are authorized or required by law.

Section 3. **VICE-PRESIDENTS.** The Vice-Presidents shall be vested with all the powers and shall perform all the duties of the President in the absence or disability of the latter, unless or until the directors shall otherwise determine. They shall have such other powers and perform such other duties as shall be delegated to them by the President or Board of Directors. Whenever there shall be two or more Vice-Presidents in office, then in case of the absence or disability of the President, his powers and duties shall devolve upon the Vice-Presidents in the order of their election, or if elected simultaneously, in the order designated by the Board of Directors.

Section 4. **SECRETARY.** The Secretary shall give, or cause to be given, notice of all meetings of shareholders and directors, where necessary, and all other notices required by law or by these By-Laws, and in case of his absence or refusal or neglect so to do, any such notice may be given by any person thereunto authorized or directed by the President, or by the Directors or shareholders upon whose requisition the meeting is called. He shall record all the proceedings of the meeting of the shareholders and directors in a book to be kept for that purpose, and shall perform such other duties as may be assigned to him by the Directors or the President. He shall have the custody of the seal of the corporation and shall affix the same to all instruments requiring it, when authorized by the Directors of the President, and attest the same.

Section 5. **TREASURER.** The Treasurer shall have the custody of all funds, securities, evidence of indebtedness and other valuable documents of the corporation; he shall receive and give or cause to be given receipts and acquittances for moneys paid in on account of the corporation and shall pay out of the funds on hand all just debts of the corporation or whatever nature upon maturity of the same; he shall enter or cause to be entered in books of the corporation to be kept for that purpose full and accurate accounts

of all moneys received and paid out on account of the corporation, and whenever required by the President or the Directors, he shall render a statement of his cash accounts; he shall keep or cause to be kept such other books as will show a true record of the expenses, losses, gains, assets and all liabilities of the corporation; he shall, unless otherwise determined by the directors, have charge of the original stock books, transfer books and stock ledgers and act as transfer agent in respect of the stock and securities of the corporation; and he shall perform all of the duties incident to the office of Treasurer. When required by the Board of Directors he shall give the corporation a bond for the faithful discharge of his duties in such amount and with such surety as the board may prescribe.

#### ARTICLE IV

##### RESIGNATIONS; FILLING OF VACANCIES

Section 1. RESIGNATIONS. Any director, member of a committee or other officer may resign at any time. Such resignation shall be made in writing, and shall take effect at the time specified therein, and if no time be specified, at the time of its receipt by the President or Secretary. The acceptance of a resignation shall not be necessary to make it effective.

Section 2. FILLING OF VACANCIES. If the office of any director or other officer becomes vacant, the directors in office may appoint any qualified person to fill such vacancy, who shall hold office for the unexpired term and until his successor shall be elected or appointed and qualified.

#### ARTICLE V

##### CAPITAL STOCK

Section 1. ISSUE OF CERTIFICATES. The President shall cause to be issued to each shareholder one or more certificates, under the seal of the corporation, signed by the President or Vice-President and the Treasurer or Secretary, certifying the number of shares owned by him in the corporation.

Section 2. TRANSFER OF SHARES. The shares of stock of the corporation shall be transferable only upon the books of the corporation by the holders thereof in person or by their duly authorized attorneys or legal representatives, and upon such transfer the old certificates shall be surrendered to the corporation by the delivery thereof to the person in charge of the stock and transfer books and ledgers, or to such other person or corporation as the directors may designate as Register or Transfer Agent, by whom they shall be cancelled, and new certificates shall be thereupon issued. A record shall be made of each transfer, and a duplicate thereof mailed to the principal office in Montana, if made elsewhere, and wherever a transfer shall be made for collateral security, and not absolutely, it shall be so expressed in the entry of the transfer.

Section 3. DIVIDENDS. The directors may declare dividends from the surplus or net profits arising from the business of the corporation, and from reserves when allowed by law, as and when they deem expedient. Before declaring any dividend there may be reserved out of accumulated profits or reserves a such sum or sums as the directors from time to time in their discretion think proper for working capital or as a reserve fund to meet contingencies or for equalizing dividends, or for such other purposes as the directors shall think conducive to the interests of the corporation. The directors shall not close the transfer books but may set a record date upon which the transfer agent will take a record of all shareholders entitled to the dividend without actually closing the books for transfer of stock.

**ARTICLE VI**

**MISCELLANEOUS PROVISIONS**

Section 1. **CORPORATION SEAL.** The Corporate Seal shall be circular in form and shall contain the name of the corporation and the words, "Corporation Seal Montana."

Section 2. **PRINCIPAL OFFICE.** The principal office shall be established and maintained at 301 West Main Street, Central City, Montana 59991.

Section 3. **CHECKS, DRAFTS AND NOTES.** Until otherwise ordered by the Board of Directors, all checks, drafts and other orders for the payment of money, and notes or other evidences of indebtedness issued in the name of the corporation shall be signed by any one of the President, a Vice-President or the Treasurer.

Section 4. **AMENDMENTS.** The Board of Directors, by the affirmative vote of a majority of the directors, may at any meeting amend, alter, or repeal any of these By-Laws, or adopt new By-Laws; provided, however, that in the case of special meetings the substance of the proposed amendment shall have been stated in the notice of the meeting.

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**CERTIFICATION OF ADOPTION OF BY-LAWS**

I, the undersigned, as Secretary of Progressive Communications, Inc., a Montana corporation, do hereby certify that the above and foregoing By-Laws were duly adopted as the By-Laws of said corporation by the Board of Directors by resolution adopted on \_\_\_\_\_.

\_\_\_\_\_  
Secretary



**PARTNERSHIP AGREEMENT**

**Tim Leader (hereinafter Tim), Jeff Workman (hereinafter Jeff), and Innus N. Vertor (hereinafter Innus), of Silver Bow County, in the State of Montana, agree as follows:**

**1. To voluntarily associate themselves together as General Partners for the purpose of conducting the general business of manufacturing nylon and leather bags and other such related activities as may pertain to same. The scope of this partnership shall not be limited to any one specific field of endeavor and may be expanded at any future time by agreement of both Partners.**

**2. The name of the partnership shall be Montana Stitchery.**

**3. Said partnership shall commence on the execution of this Agreement and shall continue until dissolved by mutual agreement of the parties or terminated as herein provided.**

**4. The principal places of business of the Partnership shall be at 100 Main Street, Central City, Montana, and such other place or places as may be mutually agreed on by the parties hereto.**

**5. The initial capital of said partnership shall consist of computer equipment valued at \$5,000 and cash of \$5,000 from Tim, \$10,000 in cash from Jeff, and \$20,000 from Innus, totalling Forty Thousand dollars (\$40,000).**

**6. Partnership income shall come from the following sources:**

**Sales of Nylon and leather Bags;**

**Interest on partnership funds deposited in interest bearing accounts;**

**and any other source that may presently or in the future realize income through the joint efforts of the partners.**

**7. No partner shall withdraw any portion of the capital of the Partnership, borrow against any asset of the Partnership, or otherwise encumber any asset of the Partnership without the express written consent of the other Partners.**

**8. Any net profits or losses that may accrue to the Partnership shall be distributed to or be borne by the Partners in proportion to their initial investment as described in part 5, that is Twenty-Five Percent (25%) for Tim, Twenty-Five Percent (25%) for Jeff, and Fifty Percent (50%) for Innus: It is understood that each of the Partners be responsible for any encumbrances, taxes, insurance and other expenses related to the operation of said business in the same proportions as profit and losses.**

**9. The partnership shall maintain checking or other accounts in such bank or banks as the Partners shall determine, and all funds received by the firm shall be deposited. Withdrawals shall require both partners' signatures.**

**10. At all times during the continuance of the Partnership, the Partners shall keep accurate books of account in which all matters relating to the Partnership, including all income, expenditures, assets and liabilities thereof, shall be entered. Said books shall be kept on a cash or accrual basis and shall be open to examination by either Partner at any time.**

**11. The fiscal year of the Partnership shall end on the 31st day of December of each year.**

12. A complete accounting of the Partnership affairs as of the close of business on the last day of each calendar month of each year shall be rendered to each Partner within ten (10) days after the close of each such month. On each accounting being made, the net profits and losses of the Partnership shall be distributed to the Partners as herein provided or by subsequent agreement. Except as to manifest errors brought to the other Partner within thirty (30) days after its rendition, each such accounting shall be final and conclusive as to the Partners.

13. The interest in the overall good of the Partnership shall take precedence over the individual interest of a Partner.

14. In general, the responsibilities of the Partners shall be as follows:

Tim: Shall be responsible for the general management of the company, marketing, overseeing operations, and scheduling of work efforts.

Jeff: Shall be responsible for the financial management of the company including funds management, payroll, taxes, invoicing, collections, and complying with all governmental regulations regarding employee withholding, taxes, insurance, and all other financial and fiduciary responsibilities.

Innus: Shall have no responsibilities in the day to day operations, but shall participate in overall company goals and strategies.

15. Each Partner shall devote such time as may be necessary to carry out the Partnership business, it being specifically understood that the Partners will utilize their best efforts to divide the responsibilities for the operation of the Partnership on an equal basis.

16. Each Partner shall have an equal voice in the management of the Partnership and shall have authority to bind the Partnership in making contracts and incurring obligations in the name and on the credit of the firm. Provided, however, no Partner shall incur any obligations in the name or on the credit of the firm exceeding FIVE-HUNDRED DOLLARS (\$500.00) without the express written consent of the other Partners. Any obligation incurred in violation of this provision shall be charged to and collected from the individual Partner incurring such obligation.

17. No Partner shall be entitled to a salary unless otherwise agreed to by a subsequent agreement.

18. The term "net profits" as used in this Agreement shall mean the net profits of the Partnership as determined by generally accepted cash accounting principals for each accounting period provided for in this Agreement.

19. Any Partner may withdraw from the Partnership at the end of any accounting period by giving the other Partner thirty (30) days' written notice of his intention to do so.

20. On dissolution of the Partnership by the death, withdrawal, termination or other act of any Partner, the remaining Partners may continue the Partnership business by purchasing the interest of the other Partner in the assets and goodwill of the Partnership and the remaining Partners shall have the option to purchase such interest of the other Partner by paying to such Partner or his personal representative the value of such interest

determined as provided in Paragraph 21 of this Agreement.

21. On exercise of the option described in Paragraph 20 of this Agreement to purchase the Partnership interest of a deceased, withdrawing, or terminated Partner, the remaining Partners shall pay to the person legally entitled thereto the value of such interest as shown on the last regular accounting, per appraisal, of the Partnership preceeding such dissolution together with the full unwithdrawn portion of such deceased, withdrawing, or terminated Partner's distributive share of any net profits earned by the Partnership between the date of such accounting and the date of the dissolution of the Partnership.

22. Should the Partnership be dissolved by the death of either Partner, the remaining Partners shall have ninety (90) days from the date of the death of the deceased Partner to purchase the interest of the deceased Partner in the Partnership and to pay to the personal representative of such deceased Partner the value as provided in Paragraph 21 of this Agreement. During such ninety (90) day period following the death of either Partner, the remaining Partners may continue the business of the Partnership but the estate or personal representative of the deceased Partner shall not be liable for any obligations incurred in the Partnership business during such period beyond the amount includable in the estate of the deceased Partner already invested or involved in the Partnership on the date of the deceased Partner's death. The estate of the deceased Partner shall be entitled, at the election of the personal representative of the deceased Partner, to either the respective proportion of the net profits earned by the Partnership business during the thirty (30) day accounting period or, to interest in the Partnership business at the rate of Ten Percent (10%) per annum on the value of such interest determined as provided in Paragraph 21 of this Agreement.

23. On any purchase and sale being made pursuant to the provisions of Paragraph 20, 21, or 22 of this Agreement, the remaining Partner shall assume all obligations of the Partnership and shall hold the withdrawing Partner, the personal representative and estate of a deceased Partner, and the property of any such withdrawing or deceased Partner free and harmless from all liability for such obligations. Further, the remaining Partner, at his own cost and expense, shall immediately cause to be prepared, filed, served, and published all such notices as may be required by law to protect the withdrawing Partner or the personal representative or estate of a deceased Partner from liability for the future obligations of the Partnership business.

24. On dissolution of the Partnership other than as provided in Paragraphs 20, 21, and 22 of this Agreement, the affairs of the Partnership shall be wound up, the assets of the Partnership liquidated, all debts paid, and the surplus divided among the partners according to their net worths in the Partnership business.

25. The Partners agree to determine a net worth of the Partnership business at the end of each fiscal year based upon standard accounting and business appraisal principles. This value will serve as an established market value of the business for the purposes of a deceased, withdrawing, or terminated Partner. The Partners agree that any discrepancy as to the value of the business shall be determined by a third party arbitrator within ninety (90) days from the death, withdrawal or termination of said Partner.

26. Any and all notices between the parties provided for or permitted under this

Agreement or by law shall be in writing and shall be deemed duly served when personally delivered to a Partner, or, in lieu of such personal service, when deposited in the United States mail, certified, postage prepaid, addressed to such Partner at the address of the principal place of business and signed copy thereof shall be filed and kept with the books of the Partnership.

27. On all monthly accountings provided for in this Agreement, the goodwill of the Partnership business shall be valued at One Dollar (\$1.00) and no more.

28. This instrument contains the sole and only agreement of the parties relating to their Partnership and correctly sets forth the rights, duties, and obligations of each to the other in connection therewith as of its date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this agreement are of no force or effect.

Executed on \_\_\_\_\_ at \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

State of \_\_\_\_\_ )  
   ) ss.  
County of \_\_\_\_\_ )

Before me, the undersigned authority, personally appeared

\_\_\_\_\_, \_\_\_\_\_, and

\_\_\_\_\_, who, after being

duly sworn, acknowledged execution of the preceding instrument.

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_,

19\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

**MINUTES OF ORGANIZATION MEETING  
OF BOARD OF DIRECTORS OF MONTANA STITCHERY, INC.  
June 1, 1992**

The organization meeting of the board of directors of Montana Stitchery, Inc., a Montana corporation, was held at Central City, Montana, on June 1, 1992 on Monday, at 1:00 PM, pursuant to call thereof by the incorporator and waiver of notice thereof by the director, which Call and Waiver, marked Exhibit "A" is hereby annexed. Tim Leader, Jeffery Workman, and I.N. Vestor, being the initial directors, were all present and participated in the meeting.

Tim Leader acted as chairman and designated Mary Leader to act as secretary of the meeting.

Tim Leader was nominated for the position of Chairman of the Board. There being no further nominations, it was moved and unanimously carried that said nominee be elected to said position.

The chairman presented a proposed code of By-laws, a copy of which, Marked Exhibit "B", is attached to these minutes. After examination of said proposed By-laws by the directors, and general discussion, it was moved, seconded, and unanimously carried that the following resolution be adopted, to-wit:

**"BE IT HEREBY RESOLVED, that the proposed code of By-laws presented to this meeting be and is hereby adopted as the By-laws of this corporation."**

The next order of business being the election of officers, Tim Leader was nominated for the office of president, Jeff Workman for the office of vice president, Mary Leader for the office of secretary, and Jeff Workman for the office of treasurer. There being no further nominations for any of the said offices, it was moved and unanimously carried that the nomination for each of said offices be closed, and that the secretary of the meeting be directed to cast the unanimous ballot of the directors for the election of each said nominee for said respective offices. That having been done, the chairman declared Tim Leader elected as president, Jeff Workman as vice president, Mary Leader as secretary, and Jeff Workman as treasurer of the corporation, to serve until their respective successors are elected and qualified.

The next order of business was a discussion of a depository for the funds of the corporation. After further discussion, it was moved, seconded, and unanimously carried that the following resolution be adopted to-wit:

**"RESOLVED, That the Montana Bank of Central City is hereby designated as a depository for the funds of this corporation, and any officer or other person**

hereinafter named is hereby authorized for and on behalf of this corporation to open or continue an account or accounts with said Bank and to execute and deliver to said Bank signature card or cards supplied by said Bank containing specimen signatures of officers or other persons hereinafter named and assenting to said Bank's Rules and Regulations Governing Bank Accounts, and that any officer or other person hereinafter named is hereby authorized for and on behalf of this corporation to endorse or cause to be endorsed and to deposit or cause to be deposited in such account or accounts from time to time checks, drafts and other instruments and funds payable to or held by this corporation.

"RESOLVED, That checks, drafts and other withdrawal orders and any and all other directions and instructions of any character with respect to funds of this corporation now or hereafter with said Bank may be signed by any one of the following:

Tim Leader

Jeff Workman

and said Bank is hereby fully authorized to pay and charge to such account or accounts any checks, drafts and other withdrawal orders so signed, and to honor any directions or instructions so signed, whether or not payable to the individual order of or deposited to the individual account of or inuring to the individual benefit of any of the foregoing officers or persons.

"RESOLVED, That both of the following:

Tim Leader and

Jeff Workman

hereby are authorized, for and on behalf of this corporation, at any time or from time to time to borrow money from said Bank in such amounts, at such rate or rates of interest and upon such terms as they may see fit; to execute and deliver notes or other evidences of indebtedness of this corporation therefor, and extensions and renewals thereof; to sell, assign, transfer, mortgage, pledge or otherwise hypothecate to said Bank any bills receivable, accounts, contracts, warehouse receipts, bills of lading, stocks, bonds, chattels, real estate or other property of this corporation as security; to give guaranties and other undertakings to said Bank; to discount with said Bank bills receivable of this corporation and to authorize modifications and extensions with respect thereto and to waive demand presentment, protest and notice of dishonor; and to do, authorize and agree to any and all other things at any time or from time to time in connection with any of the foregoing as they may deem appropriate.

"RESOLVED, That Said Bank shall be entitled to rely upon a certified copy of these resolutions until written notice of modification or rescission has been furnished to and received by said Bank."

The chairman stated that Tim Leader has offered to transfer to this corporation a computer plus \$5,000 cash in exchange for 2,000 shares of the capital stock of this corporation; that Jeff Workman has offered to transfer to this corporation \$10,000 cash in exchange for 2,000 shares of the capital stock of this corporation; that Innus N. Vestor has offered to transfer to this corporation \$25,000 cash in exchange for 5,000 shares of the capital stock of this corporation; all stock to be at \$5.00 per share and to be issued as fully paid an non-assessable. After further discussion, it was moved, seconded and unanimously carried that the following resolution be adopted, to-wit:

"BE IT HEREBY RESOLVED, That this corporation purchase from Tim Leader the computer plus \$5,000 cash in exchange for said 2,000 shares of capital stock of this corporation; that this corporation purchase from Jeff Workman \$10,000 cash in exchange for said 2,000 shares of capital stock of this corporation; and that this corporation purchase from Innus N. Vestor \$25,000 cash in exchange for said 5,000 shares of capital stock of this corporation.

"BE IT FURTHER HEREBY RESOLVED, that Tim Leader's equity in the said properties be and hereby found to be of a true value of \$10,000; and that in payment for said interest of Tim Leader this corporation issue to Tim Leader 2,000 shares each of its capital stock, upon receipt of conveyances and assignment of the said property; that in payment for said interest of Jeff Workman this corporation issue to Jeff Workman 2,000 shares each of its capital stock, upon receipt of conveyances and assignment of the said \$10,000 cash; and that in payment for said interest of Innus N. Vestor this corporation issue to Innus N. Vestor 5,000 shares each of its capital stock, upon receipt of conveyances and assignment of the said \$25,000 cash.

"BE IT FURTHER HEREBY RESOLVED, That the said capital stock when issued shall be fully paid and non-assessable.

"FURTHER RESOLVED, That the officers of the corporation be and are hereby authorized and directed to make, execute and deliver any and all instruments and to perform any and all acts which shall in their judgment be necessary and proper to give effect to this resolution."

It was stated that in connection with the authorization and issuance of said stock, it would be advisable to take advantage of the provisions of Section 1244 of the Internal Revenue Code 1954 and regulations issued thereunder, and for that purpose to adopt a plan to issue Section 1244 stock. After discussion, it was moved, seconded and carried that the following resolutions to be adopted, to-wit:

"BE IT HEREBY RESOLVED, that the following plan be and the same is hereby adopted by this corporation, to-wit:

'Plan to issue Section 1244 stock.

'1. The plan as herein set forth, after its adoption by the board of directors of this corporation, shall become effective June 1, 1992.

'2. The corporation is authorized to offer and issue 9,000 shares of its capital stock at a price of \$5.00 per share, and all of said stock shall be issued subsequent to the date and time as of which the plan becomes effective.

'3. The corporation shall offer and issue such 9,000 shares of capital stock from and after the effective date and time of this plan, until May 31, 1994, or until the date and time when the corporation shall make any subsequent offering of capital stock, whichever termination date shall sooner occur.

'4. During such period as set forth in paragraph 3 of this plan, the corporation shall offer and issue only the capital stock included in this plan and no other capital stock.

'5. The maximum amount to be received by the corporation in consideration of the stock to be issued pursuant to this plan shall be \$45,000.00.

'6. The capital stock to be issued pursuant to this plan shall be issued only for cash and other property (other than stock or securities).

'7. All such other actions shall be taken by the corporation as shall be appropriate to qualify the stock to be offered and issued pursuant to this plan as "Section 1244 Stock", as such term is defined in the Internal Revenue Code and the regulations issued thereunder.

"BE IT FURTHER HEREBY RESOLVED, that there is hereby authorized to be issued by this corporation pursuant to the terms of the foregoing plan, 9,000 shares of the capital stock of this corporation at a price of \$5.00 per share, and that all of said capital stock when issued and paid for shall be fully paid and non-assessable;

"BE IT FURTHER HEREBY RESOLVED, that the officers of this corporation be and are hereby authorized and directed to make, execute and deliver to the purchaser or purchasers of said capital stock, or their nominees, a certificate or certificates for the said shares of capital stock so purchased and sold upon receipt by this corporation of payment in full therefor;

"BE IT FURTHER HEREBY RESOLVED, that the officers of this corporation be and are hereby authorized and directed to do and perform all such acts, and to make, execute and deliver all such documents as shall in their judgement be necessary and proper to give effect to this resolution."

After further discussion, it was moved, seconded and unanimously carried that the following resolution be adopted, to-wit:

"BE IT HEREBY RESOLVED, that this corporation upon completion of the transfer of said assets to the corporation enter into and conduct a business to engage in the design and manufacturing of original fabric or leather bags, cases, packs, and any other containers or products, and to market these products to the public, wholesalers, and/or retailers; and to provide design and manufacturing



services to clients for the purpose of manufacturing the clients products for their subsequent marketing by said client;

"BE IT FURTHER HEREBY RESOLVED, that the officers of this corporation be and are hereby authorized and directed to make, execute and deliver any and all instruments and documents and to perform any and all acts, which shall in their judgment be necessary and proper to give effect to this resolution."

No further business appearing, it was moved and unanimously carried that the meeting adjourn.

APPROVED:

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Chairman

ATTEST

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Secretary

EXHIBIT "A"  
CALL AND WAIVER OF ORGANIZATION MEETING OF  
MONTANA STITCHERY, INC.  
June 1, 1992

The undersigned, incorporator of Montana Stitchery, Inc., a Montana corporation, hereby calls the organization meeting of the Board of Directors, on June 1, 1992, at 1:00 PM, for the following purposes, to-wit:

1. Adoption of a code of By-laws for the corporation;
2. Election of Chairman of the board of directors;
3. Election of Officers;
4. Designation of a depository for the funds of the corporation;
5. Consideration of Tim Leader, Jeff Workman, and I.N. Vestor transferring to the corporation assets in exchange for stock;
6. Consideration and adoption of a plan for issuance of Section 1244 Stock;

DATED this 1st day of June, 1992.

\_\_\_\_\_  
INCORPORATOR

The undersigned directors hereby waives any other or further notice of said meeting, and consents to the holding thereof without other or further notice.

DATED this 1st day of June, 1992.

\_\_\_\_\_  
\_\_\_\_\_

## PROMISSORY NOTE

\$10,000

July 1, 1992

As hereinafter provided Montana Stitchery, Inc., the undersigned corporation promises to pay Tim Leader of Central City, Montana, or order, the sum of Ten Thousand Dollars (\$10,000) for value received, payable at Central City, Montana, plus interest upon the principle balance at the rate of Twelve percent (12%) per annum from July 1, 1992, payable on or before June 30, 1993.

Failure to pay this note in full when due shall, at the option of the holder hereof, cause the entire unpaid principle balance, plus all accrued interest, to become immediately due and payable.

The maker agrees in case of default in the payment of this note, principal of interest, to pay all costs and expenses of collecting the same, including reasonable attorney's fees to be fixed and determined by the court.

The Maker hereof and endorses hereon waives demand, protest and notice of non-payment.

Montana Stitchery, Inc.

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As its President

**TITLE:** Bookkeeper/Accounting Clerk

**DESCRIPTION:**

This position will maintain systematic and current records of accounts and business transactions, and to prepare periodic financial statements showing all accounts receivable and accounts payable.

**DUTIES AND RESPONSIBILITIES:**

1. Analyze and record all accounts receivable and accounts payable transactions.
2. Balance accounts and compute interest charges.
3. Calculate company payroll.
4. Make up employees' paychecks and record payroll deductions.
5. Handle employees' check requests, advancements and purchases.
6. Record all internal financial transactions.
7. Prepare and mail customer bills.
8. Answer telephone requests regarding orders and billing.
9. Report to and follow direction of Company accountant or head bookkeeper.
10. Assist accountant in following Company's operating expenses.

**JOB SPECIFICATIONS:**

**Education:** High school diploma with additional business courses including training in bookkeeping machines, computers, business math, and office practices.

**Experience:** A minimum of one year experience beyond training with duties including processing payroll and accounting debit and credit transactions.

**Skills:** Use of a 10 key calculator by touch. Use of a personal computer accounting system and spreadsheet calculator. Accuracy and an ability to concentrate on details and numbers essential. Cooperative nature required.

5-2 Employment Application Form

MONTANA STITCHERY, INC  
EMPLOYMENT APPLICATION

Prospective Employees will not be discriminated against because of race, creed, color, sex, age, national origin or handicap.

Last Name First Middle Date

Street Address Home Phone

City State Zip Business/Message Phone

Position Applying For Wage Expected Social Security Number

In Emergency Notify Phone

Have you applied for employment with us previously?  
Yes \_\_\_ No \_\_\_ If yes: When \_\_\_\_\_ Where \_\_\_\_\_

Are you available for full time work?  
Yes \_\_\_ No \_\_\_ If not, what hours/days can you work? \_\_\_\_\_

Are you legally eligible for employment in the U.S.? Yes \_\_\_ No \_\_\_

How soon are you available? \_\_\_\_\_

How did you learn of our organization? \_\_\_\_\_

Special training, skills, languages, machines etc.  
\_\_\_\_\_

EDUCATION

School Name and Address Course of Years Did You Degree Or  
Study Completed Graduate Diploma

College  
\_\_\_\_\_

High  
\_\_\_\_\_

Other  
\_\_\_\_\_

5-2 Employment Application Form

EMPLOYMENT

MONTANA STITCHERY, INC.

Please complete regardless of resume, beginning with most recent Employer.  
Note: We may contact Employers listed below unless you indicate otherwise.

1.)

Company Name \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_ From \_\_\_\_\_ To \_\_\_\_\_  
Dates of Employment

Name of Supervisor \_\_\_\_\_ Start \_\_\_\_\_ Last \_\_\_\_\_  
Weekly Pay

Job Title and Description of Duties \_\_\_\_\_

Reason For Leaving \_\_\_\_\_

2.)

Company Name \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_ From \_\_\_\_\_ To \_\_\_\_\_  
Dates of Employment

Name of Supervisor \_\_\_\_\_ Start \_\_\_\_\_ Last \_\_\_\_\_  
Weekly Pay

Job Title and Description of Duties \_\_\_\_\_

Reason for Leaving \_\_\_\_\_

3.)

Company Name \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_ From \_\_\_\_\_ To \_\_\_\_\_  
Dates of Employment

Name of Supervisor \_\_\_\_\_ Start \_\_\_\_\_ Last \_\_\_\_\_  
Weekly Pay

Your Position and Description of Duties \_\_\_\_\_

Reason for Leaving \_\_\_\_\_

Do Not Contact Employer Number \_\_\_\_\_ Reason \_\_\_\_\_

APPLICANT INPUT

What could your major contribution to the Company be? \_\_\_\_\_

What could the Company contribute to you? \_\_\_\_\_

How could your employment with us contribute to your personal goals? \_\_\_\_\_

The information requested below is for a legally permissible reason, including, without limitation, national security considerations, legitimate occupational qualification or business necessity. Federal Law prohibits discrimination based upon ancestry, marital status, or physical or mental handicap.

Marital Status \_\_\_\_\_ Sex \_\_\_\_\_  
Single \_\_\_ Married \_\_\_ Separated \_\_\_ Divorced \_\_\_ Male \_\_\_ Female \_\_\_

Height \_\_\_\_\_ Weight \_\_\_\_\_

Previous Address \_\_\_\_\_

Length at Previous Address \_\_\_ yrs. \_\_\_ mos. Present Address \_\_\_ yrs. \_\_\_ mos.

Have you ever been bonded? \_\_\_ yes \_\_\_ no \_\_\_ If yes, with which Employer \_\_\_\_\_

Have you been convicted of a felony in the last 7 years? \_\_\_ yes \_\_\_ no  
If yes, explain in full \_\_\_\_\_

Have you any physical handicap which prevents you from performing certain jobs? \_\_\_ yes \_\_\_ no If yes, describe \_\_\_\_\_

Have you received workmen's compensation or disability income payments? \_\_\_ yes \_\_\_ no If yes, describe \_\_\_\_\_

APPLICANT'S SIGNATURE

I hereby declare that the information I have provided herein is correct and complete to the best of my knowledge.  
I authorize the Employer to contact previous employers, except where otherwise noted, for reference and verification of statements made. I understand that this application is not a contract of employment.  
I understand that if employed, any false or misleading information given in this application or in my interview(s), shall be grounds for disciplinary action, including termination.  
I understand that the Employer offers Equal Opportunity treatment to all Employees and qualified applicants.  
Employment with the Employer relies on the consent of both myself and the Company. It can be terminated by either party at any time.

\_\_\_\_\_  
Signature Date

## EMPLOYMENT CONTRACT

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, between Montana Stitchery, Inc, of Central City, Montana, and \_\_\_\_\_, of \_\_\_\_\_ . In consideration of the mutual promises contained herein and other good and valuable considerations, it is agreed as follows:

1. The term of employment is \_\_\_\_\_, commencing on \_\_\_\_\_, 19\_\_\_\_ and ending on \_\_\_\_\_, 19\_\_\_\_.
2. Employee agrees to devote his entire work time as \_\_\_\_\_ and such other duties as employer may designate from time to time. Employee shall abide by employer's rules and regulations and shall faithfully perform the duties assigned to him to the best of his ability, to devote his full and undivided time to the transaction of the Company's business, to make to the Company prompt, complete, and accurate reports of his work and expenses, to promptly remit to the Company all monies of the Company collected by him or coming into his possession, and not to engage or be engaged or be interested in any other business during the existence of this contract.
3. Employer shall pay employee the sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_) per \_\_\_\_\_, payable \_\_\_\_\_ commencing \_\_\_\_\_, 19\_\_\_\_.
4. If during the term the employee is ill or is incapacitated for more than four consecutive weeks, the employer may thereafter cease his compensation during such illness or incapacity.
5. The employee will serve a probationary period of six months during which time the employer may cancel this contract without cause by giving the employee written notice. Termination will be effective at the end of the day when such notice is received.
6. The employer may, at any time, with or without cause, terminate the employment by giving the employee written notice of such termination. Termination shall be effective when stated in such notice. If the termination is due to the fault of the employee, he shall be entitled to compensation to the date of termination. If the termination is not due to the fault of the employee, he shall be entitled to \$ \_\_\_\_\_ in addition to compensation to the date of termination.
7. The employee may terminate this agreement by giving written notice \_\_\_\_\_ in advance.

Dated: \_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_



## INTERVIEW QUESTIONS: TO ASK OR NOT TO ASK

INAPPROPRIATE  
QUESTIONS

1. Do you have any physical defects?
2. Have you had any recent or past illness or operation?
3. What was the date of your last physical exam?
4. Are you a U.S. citizen?
5. Date of birth?
6. Age?
7. Emergency information: (Relationship)?
8. Do you possess a legal driver's license?
9. What are your hobbies? Interests?
10. Have you ever been arrested for a misdemeanor or felony?
11. Dates attended high school?  
Grammar school?
12. Date graduated or last attended high school? Grammar school?
13. In what extracurricular activities did you participate? Clubs?
14. College subjects of interest?
15. What salary earnings do you expect?
16. Memberships (with or without EEO disclaimer)?

MORE APPROPRIATE  
QUESTIONS

Do you have any physical disabilities or impediments which might in any way hinder your ability to perform the job for which you have applied?

Have you had recent or past illnesses or operations which might, in any way, hinder your ability to perform the job for which you have applied?

Are you willing to take a physical exam at our expense if the nature of the job requires one?

Do you have the legal right to live and work in the U.S.?

Are you over 18?

Are you over 18?

Emergency information: Name, address, telephone

Only for applicants who desire a job driving a company vehicle: Do you possess a legal and current driver's license?

Do you have any hobbies or interests which have a direct bearing on the job you are seeking?

Have you, since the age of 18, ever been convicted of a misdemeanor or felony? (Note: A conviction will not necessarily bar you from employment. Each conviction will be judged on its own merits with respect to time, circumstances, and seriousness.)

Did you complete grammar school? High school?

Same as item 11.

While in school, did you participate in any activities, or belong to any clubs, which have a direct bearing upon the job for which you are applying?

While in college, did you take any courses that directly relate to the job for which you are applying?

If you are employed, are you willing to accept the prevailing wage for the job you are seeking?

Have you ever belonged to a club, organization, society, or professional group which has a direct bearing upon your qualification for the job which you are seeking?