

Partner or Limited Liability Company Member Exemption For Construction or Landscape Employers

Oregon law (ORS 656.027) places a limit on the number of partners or limited liability company (LLC) members who perform work for a construction or landscape business who may be exempted from workers' compensation coverage.

Each partnership or LLC is authorized to exempt two partners or members, or one exemption for each 10 employees in the business, whichever is greater. To be eligible to be designated exempt, the business entity must be registered with the Construction Contractors Board (CCB) or the Landscape Contractors Board (LCB), and the partner or member must own either 10 percent or more of the business or at least a percentage equal to the average owners' interest if less than 10 percent. (Partners or members who are not active in the business need not be designated exempt and are not covered.)

There is also a provision for family businesses which allows the exemption of more than two partners or members, if these conditions are met.

1. **All** partners or members of a business must be from the same family. If one or more partners or members are non-family, this special family rule does not apply.
2. Each partner or member must have one of the following relationships to another partner or member: parent, spouse, sister, brother, daughter, son, daughters-in-law, sons-in-law, or grandchild.
3. Only partners or members meeting the ownership criteria above may be designated as exempt. Partners or members not meeting the ownership criteria are subject workers who must be covered, and may not be exempted.
4. The business must designate all partners or members it wishes to exempt in writing to the insurer.

Please use the form on page 1 to designate the partners or members you wish to exempt from workers' compensation coverage. Any partners or members you do not designate exempt, or who are ineligible for exemption, must be reported for premium purposes under the wages established by the National Council on Compensation Insurance (NCCI). Partners and LLC members must report the NCCI monthly assumed wage, regardless of their actual earnings. Report payroll in the classification applicable to the partners' or members' duties. If they perform duties applicable to several classifications, the payroll may be split providing you maintain verifiable payroll records for the actual time spent in each classification.

Oregon Administrative Rule (OAR 436-050-0050) states that if a partnership or LLC fails to designate which partners or members are exempt, the exempt partners or members shall be determined in the following order: 1) the partner or member with the largest ownership interest, then the next largest ownership interest; or 2) if the ownership interest is the same, the sequence of the exemptions will be determined by whose birthday falls earlier in the year.

Changes to your designated exemptions must be requested in writing, and will become effective no sooner than the date received by SAIF Corporation.