



## **Checklist for AB5 Exemptions**

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This is a checklist of freelancers' exemptions from AB5/AB2257/Article 1.5. Yes, it's bureaucratic and annoying, but we need to be exempt. For that, you must satisfy **all the criteria for one exemption plus some of the criteria for Borello.**

### **Professional services (freelancer) exemption**

All are required:

- Written contract for project specifies my rate of pay, deadline(s) for payment, and copyright terms.
- Work primarily off-site.
- Don't replace employees doing the same kind and amount of work.
- Maintain a business location separate from the client's (it can be a home office).
- Have the business and professional licenses required in work location.
- A history of doing the kind of work I'm doing or trying to get that kind of work.
- Use my own discretion and judgment in the work.
- Negotiate my rates with the client.
- Select my own hours except for reasonable client requirements.

### **Business-to-business exemption**

Business name \_\_\_\_\_

Business type:  Registered sole proprietor  LLC  Partnership  Corporation

All are required:

- Written contract cites the services I perform, my rates, and payment due dates.
- I control how I perform my work.
- Services provided directly to client.
- Have the business licenses and registrations required in work location.
- My business location is separate from the client's.
- I have a business in the current kind of work.
- Additional clients allowed during the project.
- Advertising the same or similar services as in the current project.
- Use my own tools, vehicles, and equipment, within reason.
- Negotiate rates with the client.
- Select my own hours and work site, within reason.

### **Borello criteria**

Only some of these are required, but especially the first:

- I control the manner and means of performing my work without the client's supervision.
- Work is outside the client's usual course of business.
- My business is separate from the client's business.
- Invest in my business, especially in the equipment and materials for the current project.
- Can lose money in my business depending on my management skills.
- Work requires a special skill.
- Select my own tools and work site.
- In the client's locale, similar work is usually done by freelancers and independent contractors.
- Project is temporary with defined goals and timelines.
- There is not a long-term relationship with the client.
- Charging by the job not by the time.
- Hire my own workers and assistants.
- Written contract specifies means by which the client or I can end the project prematurely without penalty.
- Contract states that client and I are not creating an employer-employee relationship.