

Withholding Fact Sheet 12, Surety Deposits for Non-Minnesota Construction Contractors

Surety Deposit Law

If you hire or contract with a non-Minnesota contractor to perform construction work in Minnesota, you must withhold 8% of their compensation as a Minnesota surety deposit. Payments are subject to 8% withholding only if the work was performed in Minnesota and the value of the contract exceeds \$50,000.

You deposit this cash surety with the Minnesota Department of Revenue. We use the surety to guarantee that the contractor fulfilled the requirements for Minnesota withholding, sales and use, franchise, and income taxes.

For more information, see Minnesota Statute 290.9705.

Exemption

A non-Minnesota construction contractor may qualify for an exemption from the surety deposit if any of these are true:

- The contractor gives the us a bond secured by an insurance company licensed in Minnesota and equal to 8% of the contract. The bond remains in effect until the contractor satisfies all tax liabilities. You may choose to complete and send us Form SDB, *Non-Minnesota Contractor's Bond*.
- The contractor gives us a cash surety. A cash surety is evidence of a savings account, deposit or certificate of deposit in, or issued by, a state bank, national bank, or savings and loan association doing business in Minnesota. The contractor may keep interest and dividends earned on the principal amount.
- The contractor is performing work for a government agency and has a payment and performance bond.
- The contractor has done construction work in Minnesota during the past three calendar years and has fully complied with Minnesota laws for withholding, sales and use, corporate franchise, and income taxes.

How a Contractor Applies for Exemption

To apply for an exemption from the surety deposit, the non-Minnesota construction contractor must register for a Minnesota Tax ID Number. They must then complete and file Form SDE, *Exemption from Surety Deposits for Non-Minnesota Contractors*, with the department.

If approved, we will sign the form and return it to the contractor. The contractor must then make a copy and give the original Form SDE to the person or business for whom they are doing the work to show they are exempt from the 8% surety deposit.

How to Pay the Surety Deposit

If you are required to withhold 8% from a non-Minnesota construction contractor's pay, complete and send us Form SDD, *Surety Deposits for Non-Minnesota Contractors*. We will hold the surety deposits until the contractor fulfills their Minnesota tax obligations.

After the project has been completed, the contractor can apply for a refund using Form SDR, *Refund of Surety Deposits for Non-Minnesota Contractors*. We will refund any amounts held as surety.

Additional Requirements

Non-Minnesota construction contractors doing work for Minnesota subdivisions (counties, cities, school districts, etc.) must file a Contractor Affidavit (Form IC134). For details, see Withholding Fact Sheet 13, *Construction Contracts with State or Local Government Agencies*.

Information and Assistance

Additional forms and information, including fact sheets and frequently asked questions, are available on our website.

Website: www.revenue.state.mn.us

Email: withholding.tax@state.mn.us

Phone: 651-282-9999 or 1-800-657-3594

This information is available in alternate formats.