

Employee or Independent Contractor? How and Why You Absolutely Must Know the Difference

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Businesses are always looking for ways to save money while maintaining productivity, especially in trying economic times. One way of achieving this has been for companies to hire independent contractors in lieu of employees.

Businesses can reap several benefits, both financial and legal, from hiring properly classified independent contractors. On the one hand, they can avoid the financial burden of hiring employees, including employment taxes, worker's compensation insurance, Social Security and Medicare, and other withholding. Businesses who hire independent contractors also may not be subject to minimum wage, overtime and antidiscrimination laws. On the other hand, businesses that get this analysis wrong may be exposed to hefty fine, penalties, back taxes, and damages in employment lawsuits.

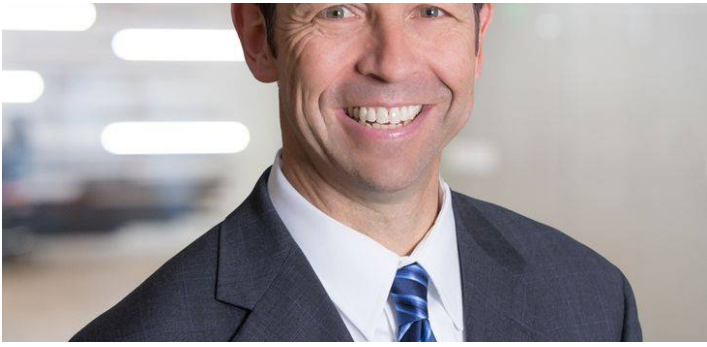
In determining whether to classify a worker as an employee or independent contractor, look at the entire relationship: if workers look, act and are treated like employees, the chances are that they should be classified as such. Other helpful hints are whether the independent contractor has a separate legal entity such as a corporation; hires or employs its own workers; receives payment to the entity rather than the individual; and provides similar services for entities other than the putative employer.

Finally, care should be taken to document the factors used in classifying a worker as an independent contractor. This will be helpful if a company ever faces an audit or lawsuit. Remember that state and federal agencies prefer that you lean towards classifying workers as employees rather than independent contractors.

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