

EMPLOYEE



/OR/



CONTRACTOR?

## THE CRACKDOWN ON MISCLASSIFIED WORKERS

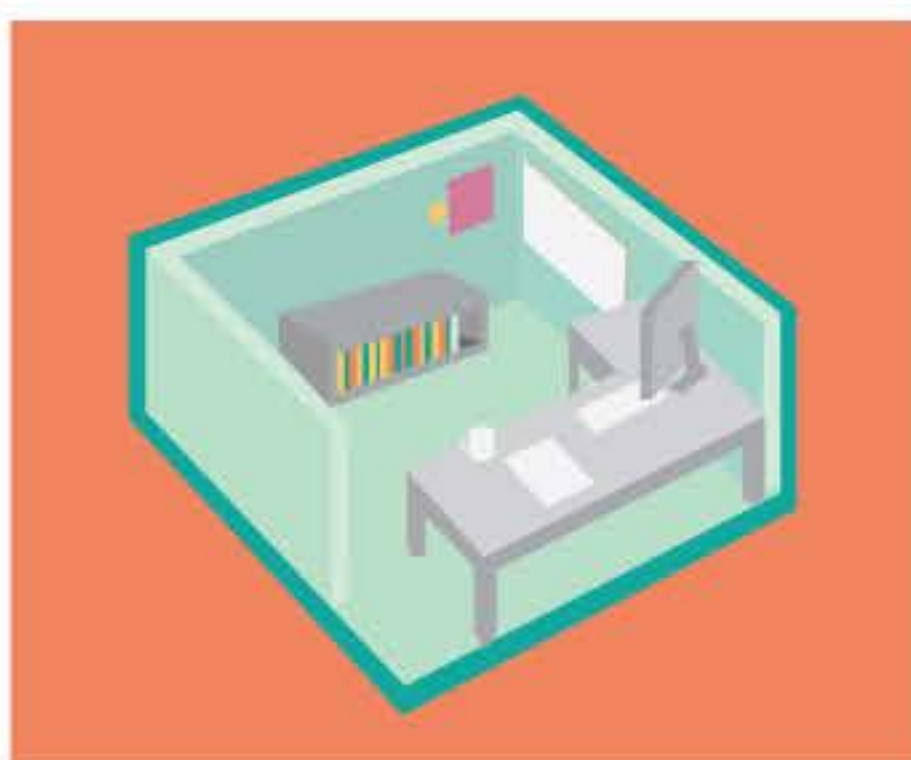
For small-business owners hiring both independent contractors and employees, it's important to fully understand the distinctions between the two to avoid complications from the Internal Revenue Service (IRS). With everyone looking to cut costs and the IRS conducting payroll audits on worker misclassification, we take a close look at the difference between full-time staff and contractors.



According to the IRS, "In general, someone who performs services for you is your employee if you can control what will be done and how it will be done."

## KNOW THE DIFFERENCE

Some businesses misclassify an estimated **10% to 60%** of their workers as independent contractors.



W-2 EMPLOYEE



1099 CONTRACTOR

Performs duties dictated or controlled by others



Has own tools and sets own hours

Is provided training for work to be accomplished



Invoices for work completed

Works for one employer



Can work for multiple companies

Is on the company's payroll and receives a W-2 form at tax time. Employer withholds federal and state taxes, Social Security and Medicare



Pays own taxes to IRS and state tax department. Receives 1099-MISC at tax time. Generally, companies do not withhold or pay federal taxes on behalf of contractors

Is typically offered benefits, such as paid sick leave, vacation, health insurance, 401K or other retirement plans



Not entitled to company benefits



**CONTRACTORS CAN SAVE EMPLOYERS AS MUCH AS 40% ON LABOR COSTS, WHILE HIRING AN EMPLOYEE WILL GIVE THE COMPANY A LONG-TERM INVESTMENT BECAUSE OF THEIR STRONG LOYALTY AND KNOWLEDGE OF THE BUSINESS.**

## THE CONSEQUENCES



Nearly **30%** of firms misclassify contractors.

This amount equals to billions of dollars in unpaid taxes, and the IRS is working hard to intervene.

### MISCLASSIFYING YOUR WORKERS MAY RESULT IN:

- Owing back payroll taxes, interest, and stiff penalties.
- Accruing a large amount of paperwork.

### MAJOR CRACKDOWN

An additional **\$900 MILLION** per year would go towards the IRS, if the tax agency were to modify its "safe harbor" rules, making it difficult for employers to classify workers as independent contractors.

### \$9.5 MILLION

The amount the government has collected in back wages from more than 11,400 misclassified workers since September 2011

### \$8.71 BILLION

The number of estimated tax revenue over the next 10 years from the U.S. treasury forcing employers to rightfully classify workers

### 1,000

The number of small businesses that have signed up for an extended amnesty program that waives some penalties to encourage employers to voluntarily reclassify contractors as employees

## MAKE THE ASSESSMENT

If you find that you need to reclassify your contractors or bring them onto payroll, but be sure to consult a tax expert or legal counsel before you take action.



### EXAMINE EMPLOYEE'S STATUS

If you discover a contractor misclassification, Voluntary Classification Settlement programs can help fix issues regarding federal, not state, taxes. Take heed: You may owe contractors benefits and other compensation for the period during which they were misclassified.

### STAY WITHIN YOUR MEANS

By adding contractors to your payroll, make sure you can afford it. Adding employees to the payroll will cost the business additional employment taxes. Make sure you properly classify contractors to avoid any conflicts with the IRS.



### HELP FROM IRS

The IRS can help an employer determine a worker's status. An employer must file Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding.

SOURCES:

IRS.gov, U.S. Small Business Administration, Wall Street Journal

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