



Views Employers advised to review employee classifications

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Whether you are an employer trying to decide whether to hire an employee, or a professional thinking about which option is the best for you, the [IRS has guidelines defining each category](#).

Independent contractors offer their services to the general public and typically have an independent trade or business such as doctors, lawyers, accountants, contractors, etc. The payer has the right to control or direct the result of the work but not what will be done or how it will be done. Contractors often have a significant investment in the facilities or equipment he or she uses in performing services. Earnings are subject to self-employment tax. Generally, an employer does not have to withhold or pay any taxes on payments to independent contractors.

Employees are anyone who performs services for you if you can control what will be done and how it will be done. The employer has the right to control the details of how the services are performed. Generally, employers must withhold income taxes, withhold and pay Social Security and Medicare taxes and pay unemployment tax on wages paid to an employer.

A few common law rules to consider:

- Behavioral. Does the company control or have the right to control hours or how the worker does the job? Does employer provide educational training?
- Financial. Are the aspects of the job controlled by the payer and expenses reimbursed or does company provide an office, computer and supplies?
- Relationship. Are there written contracts or does the worker have benefits such as insurance, pension, vacation pay, etc? Is the work performed a key aspect of the business?

If you go through this exercise and you are still unsure, there is a Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding. The IRS will review and determine the status. It is better to be safe than sorry and to not assume that just because your worker wants to be treated as an independent contractor or signed a contract that it makes them independent. There are risks when misclassifying employees including penalties and interest.

Who should you hire?

If, as an employer, your goal is to avoid employment taxes and benefit costs while establishing a key resource — hire an independent contractor. You can also hire an independent contractor on a short-term (usually three-month) trial basis to see if the worker is a good fit for the job and office culture. This method is often called a “temp-to-perm” hiring process, which is especially popular with fast growing companies, or small businesses with short-term staffing needs.

If, as an employer, your goal is to train and develop your workforce with intimate supervision within a career pathing program, hire an employee. You should also hire an employee if the nature of your business is predominantly billable work. As a general rule, if the billable time of current full-time employees is at or above 85% and the profit margins are at least 50%, you should add another full-time employee.

SOURCE: <http://www.benefitnews.com>