

INDEPENDENT CONTRACTORS: WHAT YOU NEED TO KNOW

Independent contractor status provides innumerable benefits, including profitability, to both federal and state governments. Since the status eliminates the need for employers to withhold taxes — and provide other employee perks such as workers' and unemployment compensation, 401k, and health programs— governments have found this status to be most beneficial.

Why Use Independent Contractors?

Luckily for them, advances in technology have coincided with the increased need for independent contractors. As more home-based businesses arise, the need for full-time employees has lessened.

As an alternative, home-based business owners have sought the assistance of independent contractors: these are workers that they can use on a more limited basis and to whom they do not have to provide the aforementioned benefits.

Although the independent contractor status is more favorable to both governments and certain employers, the designation is not exactly attractive to those seeking a stable, long-term source of income.



What Challenges Accompany this Status?

In fact, an abundance of companies that originally opt for hiring independent contractors often find themselves ultimately being challenged legally by those they hired. On the other hand, well-known organizations, such as FedEx, previously designated their drivers as independent contractors. These drivers fought to be recognized as employees for quite some time.

As governments seek to hone in on the precise definition of an “independent contractor,” the characteristics of individuality are crucial to consider. For example, FedEx workers sought employee status based on the fact that they are required to sport FedEx uniforms, drive trucks with the FedEx logo, and deliver only FedEx packages.

The company, however, argued that the drivers purchase their own vehicles and even have the ability to sell their delivery routes. Therefore, workers seeking more corporate “freedom” are often drawn to independent contractor roles where they are not required to report to a supervisor.

Ultimately, FedEx settled this independent contractor mislabeling case for \$228 million in 2015 after a Ninth Circuit ruling. This epic class action settlement paid claims that were made by thousands of FedEx workers. Some of these claims even dated back to 2000. Needless to say, FedEx was not happy to find out that they were misclassifying independent contractors for so many years.

Here are some other helpful differentiators between employees and independent contractors:

Key Characteristics of Employees:

- Typically work under one employer on a full- or part-time basis
- Are often offered benefits, such as paid time off & employer contributions to Social Security, Medicare, healthcare, & 401k programs
- Are usually managed by other employees of the same organization
- Often fulfill one static role at a time, with promotional potential
- Are provided tools to use under the employer's rules & regulations, such as a desktop computer
- Have one boss
- Are often provided at least some level of job specific training
- File a W2 at tax time
- Typically adhere to a job offer letter & the company's guidelines

Characteristics of Independent Contractors:

- Often fulfill a performance-based role & are self-employed, such as salespeople
- Are sometimes hired on merely a short-term basis
- Sometimes fulfill a smaller portion of a larger project, i.e. an electrician outsourced by a general contractor to properly wire a newly constructed building
- Provide & utilize their own tools
- Are not offered extensive training— nor are they managed— by the hirer
- Are entrusted to perform tasks due to their niche and expertise
- May work on behalf of multiple companies at one time
- File a 1099 form at tax time
- Typically adhere to a verbal agreement or written contract

It is interesting to note that in July 2015, the U.S. Department of Labor issued new guidelines that are intended to prevent misclassifications. "A worker who is economically dependent on an employer is suffered or permitted to work by the employer. Thus, applying the economic realities test in view of the expansive definition of "employ" under the Act, most workers are employees under the Fair Labor Standards Act."

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