



Part of the Podcast Series

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Employees vs. Contractors

Benefits for using independent contractors:

- The employer does not match the employee's contribution to Social Security or Medicare
- The employer is not responsible for workers compensation insurance (in some places as much as 30% of labor costs)
- The company is not responsible for state or federal income or unemployment taxes
- Workers like being paid as independent contractors because they walk away with bigger paychecks, even though they are not covered for worker's comp and pay more taxes (15.3% self employment tax and all income taxes due for the year and potential penalty and interest accumulations if they did not make the correct tax payments)

Guidelines for determining employment status:

- When the employee is responsible for only the results of his/her efforts and not for the methods used to achieve those results he/she may be an independent contractor.
- However, if the employee or company...
 - Directly supervises the contractor,
 - Tells him when or how to do the work,
 - Provides training or tools,

- Controls whether the worker works for others,
- Requires the worker to personally do the work,
- Pays travel or business expenses,
- Guarantees a profit,
- Or otherwise treats the contractor as an employee then **the employer-employee relationship exists.**

Company is responsible for withholding state and federal income taxes (and the employee's share of Social Security and Medicare) when an employee-employer relationship exists.

If an employee is improperly classified as an independent contractor, the employer can become financially responsible for all unpaid taxes that should have been withheld as well as penalties and interests associated with improperly classifying the employee. This can cover many years and accumulate great interest.

More information on proper classification can be found on IRS Publication #15 A or www.irs.gov or from any IRS office. Talk with your accountant and/or attorney to ensure you are properly classifying people working for you.

Summary: If you hire workers, be very careful before classifying them as independent contractors. If you are an employee, be careful before agreeing to be classified as an independent contractor.

Visit your local SBDC for no-cost, confidential advising services: www.wsfdc.org