

Payroll Issues: Employees vs. Independent Contractors

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In relation to running a business, ignorance is not bliss. There are many rules and regulations to follow. One issue is the difference between independent contractors and employees. This can sometimes be a confusing differentiation, but the tax consequences are substantial. Business owners who have employees must withhold income tax from their employee's paychecks and pay payroll taxes. Independent contractors are paid just as any other vendor.

When determining if a worker is an independent contractor or an employee, there are three general questions that serve as a guideline to follow: 1) Does the company have behavioral control? 2) Does the company have financial control? And 3) What is the relationship between the company and the worker?

Behavioral control refers to how much control the company has over how and when the work is done, how the work is evaluated, and how much training is required. If the company has high control of these aspects, the person is most likely an employee.

Financial control refers to the monetary aspect: Who is more highly invested in the job? Is there a high amount of unreimbursed expenses? Does the worker have an opportunity for profit or loss? How does the worker get paid? And, is he/ she available to work for the general market? If the worker uses his/ her own tools, incurs unreimbursed expenses, receives a flat fee, and advertises their service, the worker is most likely an independent contractor.

Finally, how is the relationship defined between the company and the worker? Is there a written contract stating the worker is an independent contractor? Does the worker receive benefits? Is the work for a specified or limited period of time? Are the services provided a key activity of the business? All of these questions will help in determining the correct worker status.

If you have any questions regarding this matter, please contact our office.

~ Rachel Sites