

Should Workers be Treated/Classified as Employees or Independent Contractors? What difference does it make?

When the IRS and/or DOL determine that workers who have been misclassified (treated) as Independent Contractors are instead Employees, the consequence(s) to the employer can include back wages, back taxes, fines/penalties, class-action lawsuits, and/or prison.

Worker classification is important because it determines whether an employer must withhold income taxes and pay Social Security, Medicare taxes and unemployment tax on wages paid to an employee. Businesses normally do not have to withhold or pay any taxes on payments to independent contractors. The earnings of a person working as an independent contractor are subject to self-employment tax.

The U.S. Department of Labor has guidelines on **Misclassification of Employees as Independent Contractors**.

Misclassification of Employees as Independent Contractors

Misclassified employees often are denied access to critical benefits and protections they are entitled to by law, such as the minimum wage, overtime compensation, family and medical leave, unemployment insurance, and safe workplaces. Employee misclassification generates substantial losses to the federal government and state governments in the form of lower tax revenues, as well as to state unemployment insurance and workers' compensation funds.

<https://www.dol.gov/whd/workers/Misclassification/>

The entire set of handouts from the workshop, **SHOULD WORKERS BE CLASSIFIED AS EMPLOYEES OR INDEPENDENT CONTRACTORS? What difference does it make?**, is available at:

<https://www.dropbox.com/s/bcda769exmreizp/Should%20Workers%20be%20Classified%20as%20Employee%20or%20Independent%20Contractors%20rev%20JAN%202021.pdf?dl=0>