

Independent Contractor or Employee?

Classifying Workers

Do NOT ASSUME YOUR WORKER IS AN INDEPENDENT CONTRACTOR JUST BECAUSE THE WORKER:

- Asked to be treated as an independent contractor.
- Signed a contract.
- Performs services for more than one company.
- Is paid only commissions.
- Performs services sporadically or is on call.

Independent Contractor v. Employee

INDEPENDENT CONTRACTORS:

- Can hire others to perform the work for the company.
- Have the possibility of a profit or loss on the project.
- Are allowed to make their services available to others.
- Do not have set hours.
- Are responsible for their own tools, materials, equipment and travel or business expenses.
- Advertise their services including online, in the newspaper, with business cards, in the phone book.
- Are not required to work under a licensed individual while performing job duties.

EMPLOYEES:

- Perform services for the company for an extended period of time.
- Receive incentives from the company such as insurance, vacation pay and retirement benefits.
- Are paid hourly or are salaried, and pay is received at regular intervals, such as monthly, weekly or bi-weekly.
- Work under direction from the company regarding how, when and where work will be completed.

Two criteria must be met for a worker to be an independent contractor:

1. Worker must be free from the right of direction or control in performing work — under contract of service and in fact.
2. Worker must be engaged in an independently established trade, occupation, profession or business.

If you are still uncertain about the status of a member of your workforce, contact the Idaho Department of Labor directly.

Misclassifying workers can result in severe monetary and criminal issues at both the federal and state levels.