

If your business is audited and the IRS or a state agency decides that one or more independent contractors were truly employees under the law, you might have to pay back taxes with interest, fines, and penalties. You also run the risk of being sued by misclassified workers.

Employee or Independent Contractor?

When hiring an independent contractor, there should always be a written agreement that specifies the project scope, payment, and other terms. Unfortunately, having a signed contract that says a worker is a contractor may not be enough, especially if any one of the following distinctions suggests otherwise.

1. Employees work according to a schedule defined by the business. Contractors set their own hours.
2. Employees receive regular paychecks through the payroll process. Contractors submit invoices and are treated as vendors under accounts payable.
3. Businesses provide equipment, supplies, and training for their employees. Contractors rely on their own knowledge and use their own tools.
4. Employees perform core business functions. Contractors typically provide supplemental services.
5. The work relationship between employers and employees is normally considered continuous or permanent. Contractors work on a temporary basis and typically have multiple clients.

Keep in mind that any contractor who works primarily for your business for a long period of time looks a lot like an employee. You shouldn't hesitate to consult a qualified legal professional if you have questions about worker classification.

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