



EMPLOYEES/INDEPENDENT CONTRACTORS

Contractors are not always required to put workers on payroll. They can use independent contractors, but workers are presumed to be employees unless they meet strict criteria for independent contractor status under both state and federal law.

To be considered an independent contractor, a worker must be free from the employer's control and direction in their work and be engaged in an established, independent business. If a worker does not meet these criteria, they must be put on payroll, and the employer is responsible for paying their wages, withholding applicable taxes, and providing worker's compensation.

When a worker must be on payroll:

- **Misclassification is unlawful**

It is against the law to misclassify workers as independent contractors to gain a competitive advantage or avoid paying benefits.

- **Control and direction**

If a contractor directs, controls, or dictates the details of how a worker performs their job, that worker is an employee and must be put on payroll.

- **Lack of independent business**

Workers must be operating their own established business, not just being told to get business licenses or liability insurance to be considered independent contractors for tax purposes.

Consequences of misclassification

Employers who misclassify employees as independent contractors can face liability for unpaid payroll taxes, along with penalties and interest.

Employees are entitled to benefits like worker's compensation and have rights under state wage and hour laws, which are denied to misclassified independent contractors.