

Misclassifying an employee as an independent contractor can trigger serious financial and legal headaches. If you get it wrong, you could face back taxes — including both the employer's and the employee's share of unpaid payroll and income taxes — plus penalties and interest. And that's just the start.

## Why Proper Classification Matters

When you hire employees, you're responsible for withholding federal and state income taxes, along with the employee's share of Social Security and Medicare taxes. You must also pay your share of Social Security, Medicare, and unemployment taxes.

Independent contractors, on the other hand, manage their own tax obligations. Misclassifying a worker as a contractor shifts these responsibilities onto your business — and if the IRS or state agencies catch it, you're on the hook for taxes, penalties, and interest.

Misclassification also exposes you to potential claims for unpaid minimum wages, overtime, employee benefits, workers' compensation, and state disability insurance. Getting the classification right protects you from these costly mistakes.

## Key Factors to Review

The IRS looks at [three main areas](#) to determine whether a worker is an employee or an independent contractor. No single factor is decisive; the full relationship must be considered:

1. **Behavioral Control:** Who directs and controls the work? If you control how, when, or where the worker completes tasks — or if you provide significant training — the worker likely qualifies as an employee.
2. **Financial Control:** Who manages the business aspects of the job? Independent contractors typically have financial risk, set their own rates, and often work for multiple businesses.
3. **Relationship Type:** Is the worker a key part of your business's operations? Are they engaged for an indefinite period? These factors lean toward employee status. A written contract calling someone an independent contractor doesn't guarantee that status. While it can help clarify the relationship, it won't outweigh the actual working conditions if they point to employee status.

## Remote Work Doesn't Change the Rules

Working remotely doesn't automatically make someone an independent contractor.

Whether a worker is on-site or remote, the same tests apply. If you control the details of how they do their job, they likely count as an employee — not a contractor.

## Not Sure? Don't Guess.

Misclassification isn't just a paperwork error — it can have serious financial consequences. If you're unsure how to classify a worker, you have options:

- **Request IRS guidance** by filing Form SS-8, "[Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding](#)."
- **Consult a trusted tax advisor** before filing anything. They can review the details and help you avoid costly mistakes.

## Look Beyond Federal Rules

Even if you get the classification right for federal tax purposes, you still need to consider state tax laws and wage and hour regulations. Treating the same worker as an employee in one context and a contractor in another can lead to major administrative challenges. Evaluate the full picture before making a final call.

When in doubt, [speak with us](#) before making a decision.