

## Misclassification of Iowa Workers

Misclassification of workers as “independent contractors” rather than “employees” is a growing problem in Iowa and across the nation. The Federal Government Accountability Office reports that the underpayment of Social Security taxes, unemployment and income taxes in 2006, due to worker misclassification, totaled an estimated \$2.72 billion nationally.

### Penalties

Intentional misclassification of workers is illegal. This practice constitutes tax and insurance evasion. Employers could pay significant penalties and face criminal charges. Penalties are determined on the facts of each individual case.

## Reporting Misclassification

If you believe that you, or someone you know, are intentionally misclassified to avoid tax payments, workers' compensation coverage, and other legal obligations, reporting the concerns to Iowa Workforce Development is easy. You may:

- Fax or mail a completed reporting form found on the Web site, or
- Contact the Misclassification Unit by phone or e-mail to report your concerns.



1000 East Grand Avenue  
Des Moines, IA 50319  
T: 515-281-3191  
T: 800-JOB-IOWA  
F: 515-281-6457  
misclassification@iwd.iowa.gov  
www.iowaworkforce.org/misclassification  
For deaf or hard of hearing, use Relay 711

70-0017 (02/10)

Equal Opportunity Employer/Program  
Auxiliary aids and services available upon request for individuals with disabilities.

## Employee or Independent Contractor Misclassification – What is it?



## Iowa Requirements

Iowa employers must generally withhold state and federal income taxes, withhold and pay Social Security and Medicare taxes, and pay unemployment tax on wages paid to employees. A business does not generally need to withhold or pay any taxes on payments to independent contractors. When employers misclassify workers:

- They avoid paying these taxes.
- They might avoid workers' compensation coverage.
- They might fail to follow wage, contractor registration, or other employment and labor laws.
- They underbid honest, law-abiding businesses that pay all taxes owed.

**Misclassification of workers threatens Iowa's economy, its businesses and its most important resource – its workers.** The Iowa Legislature provided special funding for extra help to protect workers, law-abiding businesses, and taxpayers.

## Frequently Asked Questions

### Why is it important to correctly classify workers?

An employer has different legal, tax and financial obligations depending on how a worker is classified.

### Who is an "employee" under Iowa law?

An employee is anyone performing services for an employer. The employer controls the work to be done and how it will be done.

### Who is an "independent contractor"?

"Independent contractors" are in business for themselves. They are not employees. They have an independent trade, business or profession they offer to the public. They are generally hired to accomplish a task(s) determined by the employer. Independent contractors retain the right to control how they will do the work.

### What if I have a contract that says I am an independent contractor?

A written contract that creates an independent contract relationship is worthless if the employer retains the right to control what will be done and how it will be done.

[www.iowaworkforce.org/](http://www.iowaworkforce.org/)

### What does it mean if I get a 1099 form at the end of the year?

A 1099 form reports an independent contractor's income. This usually means that the employer did not withhold federal or state income taxes, or FICA (Social Security) or Medicare taxes from the worker's pay during the year.

The 1099 form is the right form to use if the worker really is an independent contractor. It is the wrong form to use if the worker really is an employee.

Employees should get a W-2 form at the end of the year. The W-2 form includes total wages and the amount of federal and state income taxes withheld. If you get a 1099 when you should have a W-2, you might owe federal and/or state taxes.

### Who determines if a worker is an employee or an independent contractor?

Iowa Workforce Development and the Iowa Department of Revenue have investigators and auditors who determine worker classification by employers. If you have questions, you may contact the IWD Misclassification Unit at (515) 281-3191. You also may contact the Department of Revenue's Taxpayer Services at (515) 281-3114.