

# Employee or Independent Contractor: An Important Distinction

Are you an employee, or an independent contractor? Chances are the company you work for has an answer to that question. But are they right? Misclassification of workers is a widespread problem: Pennsylvania even has a new law specifically targeting improper mislabeling of construction workers. If they get away with it, calling employees “independent contractors” can save an organization a few dollars; but, it can lead to big headaches for individuals seeking workers’ compensation benefits.

## Why Misclassification Occurs, and How it Affects Workers’ Comp Rights

Determining whether a worker should be classified as an employee or an independent contractor is a fact-intensive process that looks to whether the worker or the company has control over how the work is done and the financial aspects of the work (are tools provided by the employer, are expenses reimbursed, etc.). The nature of the relationship as understood by the parties is key as well; this means examining factors such as the terms of a contract, the ongoing or temporary nature of the work, and whether the worker is provided with employee-type benefits.

In the right situations, a company can greatly reduce labor costs through the use of independent contractors. Firms hiring independent contractors save on a variety of employment taxes and do not have to pay [workers’ compensation](#) insurance premiums. They may not have to provide benefits, and are not forced to adhere to certain labor laws. Given the many advantages independent contractor status provides to an

organization, it is no surprise that a number of employers get overzealous and misclassify some workers who are actually employees.

But, while treating an employee as an independent contractor is often good for the company, it can be bad for the worker. In addition to having to pay more taxes, independent contractors miss out on many workplace protections and are unable to collect workers' compensation benefits. For injured workers, misclassification can be disastrous.

## **How to Guarantee Your Rights**

A company that has misclassified an employee as an independent contractor can be held liable by the IRS for employment taxes. Perhaps more importantly, injured employees misclassified as independent contractors may be eligible for workers' compensation benefits. If you have been injured on the job and might be incorrectly classified as an independent contractor by your employer, contact a workers' compensation attorney to ensure you receive the benefits you have earned.