

Misclassification

What does it mean when an employer “misclassifies” a worker?

An employer has misclassified you if she/he pays you “off the books” or as an independent contractor but treats you as a regular employee. Some employers misclassify to avoid paying taxes, workers’ compensation, overtime, or other benefits that employees get. Calling an employee an “independent contractor” can save the business money and increase profits, but it also leaves the worker without important workplace protections. Find out if you have been misclassified and what you can do about it.

Report Worker Misclassification

If you think you have been wrongly classified as an independent contractor, you may file a report by calling 502-564-6838. The operator will request information for completing the report or send a “Reporting Potential Worker Misclassification or Fraud” form to you.

You may also fax a copy of the completed “Reporting Potential Worker Misclassification or Fraud” form to 502-564-5590.

You may also go to <https://kewes.ky.gov/> or <http://kcc.ky.gov/employer/> websites to send a form. Go to either website, find the “Report Worker Misclassification” link, click on the link, and follow the instructions provided for reporting.



For additional information
on misclassification, you
may contact:

U.S. Department of Labor

www.dol.gov/whd/workers/misclassification/myths-main.htm
www.dol.gov/whd/workers/misclassification/misclassification-facts.pdf

Kentucky Unemployment Insurance Tax Audit Branch

Phone: 502-564-6838
FAX: 502-564-5590
Email: desauditors@ky.gov



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Attention Workers



Do you get a 1099?

Are you called an
“Independent Contractor?”

What you don’t know CAN hurt you!

Read on for important information about
worker misclassification.



Know the Difference



**How do I know if I am
an employee or an
independent contractor?**

Employees have PROTECTIONS:

- Unemployment insurance
- Workers' compensation
- Legal protection from discrimination
- Minimum wage
- Overtime

Independent contractors have OBLIGATIONS to:

- Pay unemployment insurance
- Pay workers' compensation insurance for workers they bring onto the job
- File tax returns for business or self-employment income
- Provide copies of licenses or registrations to the person or company that hired them

**No single factor
determines whether
you are an independent
contractor or employee.**

**It depends on how much
direction and control others
have over your work and not
the label your boss may use.**

Answer these questions yes or no:

Are you paid an hourly wage?

Do you have a boss?

Does your boss set your hours?

Does your boss tell you what needs to be done each day?

Does your boss have control over the quality of your work?

Does your boss provide you with tools or materials you use?

Does your boss direct or control how you do your job?

Does your boss know how to do your job?

Is the work you do similar to the usual work of the business that hired you? (e.g., carpentry work for a construction business)

If you answered "yes" to one or more of these questions, you may be an employee, NOT an independent contractor.

Turn over to find out what you can do.