

Are you an Independent Contractor or an Employee?

If you are an independent contractor, then your taxable earnings are subject to self-employment tax. You will pay over \$4,500 in self-employment tax if you earn \$30,000. And that's on top of income taxes. In many cases, your self-employment tax will be more than your income tax liability.

You may not have to pay self-employment tax, even if your employer issued a Form 1099. If you are classified (or reclassified) as an employee, you will not have to pay some of the payroll-related taxes that self-employment tax is designed to cover.

Businesses are supposed to consider many factors when determining whether a worker is an employee or an independent contractor. No single factor stands alone when making this determination. Factors which are relevant in one situation may not be relevant in another.

Unfortunately, some employers are tempted to misclassify workers to avoid payroll taxes and for other, non-tax reasons. Some employers simply make a mistake.

If you think you have been misclassified as an independent contractor, then give us a call. We can help for free!

The most common factors used to determine employee or independent contractor status:

Degree of Control

- Nature of services provided. The degree of control necessary for employee status varies by industry. If a worker's services are a key aspect of the business, it is more likely that the business will have the right to direct and control the worker's activities.

- Who determines delivery routes and schedules?

- Are drivers required to carry a phone?

- Written contracts. A contract may state that a worker is an independent contractor but this is not enough to determine the worker's status. How the parties work together determines whether the worker is an employee or an independent contractor. If your paycheck says "1099" or "independent contractor," the result is probably the same as a paper labeled with the word "contract." It is one factor.

Capital Investment

If an employer pays for most of the expenses, then that pushes in favor of employee status. Courts will consider who pays the cost of the trucks, maintenance, tolls, insurance, repairs, and various licenses.

Permanency of the relationship

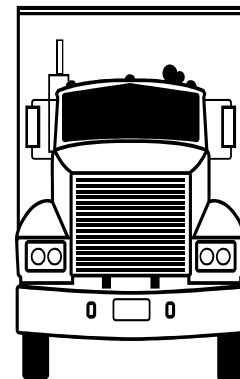
If a driver is hired with the expectation that the relationship will continue indefinitely, rather than for a specific project or period, this is generally considered evidence that the intent was to create an employer-employee relationship. If unpopular drivers are *starved out* and the employer does not have to pay those drivers contract damages, that fact may indicate an employer-employee relationship.

The relationship the parties believed they were creating

Courts might consider whether a driver reported the trucking income as wages.

Opportunity for Profit or Loss

Can drivers charge customers more to make a bigger profit? Can they suffer losses? Who determines what to charge? Keeping lumper fees is probably not a profit opportunity.



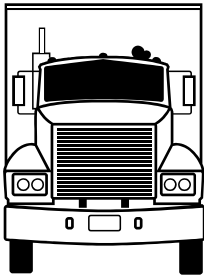
WHAT WE DO

We help you keep more of what you've earned. We provide free help with:

- Audits
- IRS Collections
- Innocent Spouse Appeals
- Tax Court Litigation
- Worker Classification

DID YOU KNOW?

Many truck drivers are employees but are misclassified as independent contractors. Sometimes that costs the driver!



REFUND\$\$\$

Even if you are not required to file a tax return, you may still be entitled to a refund of taxes you paid or an Earned Income Credit. You can only obtain these refunds if you file a return within three years after the date the return was due.

**APPALRED LEGAL AID
LOW INCOME TAXPAYER CLINIC
114 NORTH THIRD STREET
RICHMOND, KENTUCKY 40476**

1-800-477-1394 OR 1-859-624-1394

WWW.ARDFKY.ORG

Please be prepared to provide information regarding your income and personal contact information. It is very important for you to mention any deadlines you are facing.

LITCs do not provide return preparation services, but will refer taxpayers for free, volunteer return preparation if necessary to resolve tax issues.

Although the AppalReD Low Income Taxpayer Clinic receives funding from the IRS, the clinic, its employees, and volunteers are not affiliated with the IRS. A taxpayer's decision to use the tax clinic's services will not impair the taxpayer's rights before the IRS.



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DRIVE TRUCKS?

GOT TAX PROBLEMS?



APPALRED LEGAL AID WANTS TO HELP YOU!!

FREE TAX HELP ...IS JUST A CALL AWAY



1-859-624-1394 or 1-800-477-1394

From 8:00 a.m. to 4:30 p.m.

Monday – Friday