

independent contractor? *or employee?*

HOW WORKER MISCLASSIFICATION HARMS YOU

Worker misclassification happens when employers improperly classify workers as “independent contractors” instead of “employees.”


Worker misclassification is illegal because it deprives you of your employment rights and protections.

If you are misclassified as an independent contractor:

- you won't get **overtime pay** when you work more than 40 hours a week;
- your injuries on the job may not be covered by **workers' compensation**;
- you might not get **unemployment** if you lose your job; and
- you will be responsible for paying any **income tax withholdings, social security and medicare taxes** due quarterly.

You may also miss out on employer-provided **health insurance, retirement plans, vacation and sick leave**, or other employee benefits typically offered in the workplace.

www.maine.gov/labor/misclass



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FREQUENTLY ASKED QUESTIONS

What is Worker Misclassification?

Worker misclassification is a hiring practice used by employers to illegally avoid workers' compensation insurance, unemployment coverage, or other employer paid taxes and withholdings.

Who is an "employee" under Maine law?

If you are performing services for a business or individual and they control the work to be done and how it will be done, you are very likely an employee. Your employer has classified you as an employee if they have you fill out a W-4 form when you are hired, they have taxes withheld from their paycheck (income taxes, social security and medicare,) and you receive a W-2 statement of earnings at the end of the year.

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?

Even if a contract is in place, you may still be considered an employee if the employer retains the right to control what will be done and how it will be done.

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

The Maine Department of Labor has investigators who determine worker classification by employers. If you have questions, you can call the employer status unit at (207) 621-5120. For information about Workers' Compensation Insurance Coverage contact the Maine Workers' Compensation Board at (207) 287-7071.

What if I'm being paid cash?

If your employer is paying you under the table, you are still required to make payments to the IRS for income taxes owed, plus 15.3% self employment taxes. In addition to back payment of unpaid taxes, you face potentially large fines and penalties and possible criminal penalties.

FOR MORE INFORMATION

The Maine Worker Misclassification Task Force has a website where you can learn more or file worker misclassification tips anonymously. Find them online at: www.maine.gov/labor/misclass

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