



Contractor vs Employee – How To Know?

A company that used contractors entirely to deliver its services contacted us to evaluate their practices to ensure that their contractors were not being treated as employees. We did an extensive evaluation of their contracts, process for assigning jobs, pay practices, and other elements of the company's relationship with the contractors. Most of what we found was sound practice, but we made some recommendations for changes in assigning jobs and in the contractor relationship defined in the contracts.

In the first year after the company implemented the changes, their state unemployment department conducted an audit of the previous three years, determined that the contractors were really employees and handed the company a demand for \$45,000 in unemployment taxes for the period. We provided the research and written arguments to make in appeal of the demand for back taxes, and the company won the appeal, the state acknowledged that the contractors were not employees and vacated the demand for back taxes.

We received an email from the owner almost a year later:

I just wanted to pass on an experience I had yesterday.

I was going into a restaurant with a friend and a woman was walking toward us. I looked at her and couldn't quite remember where I knew her. She gave me a huge smile and said, "[Owner's Name]!"

It clicked. She was the state auditor. I said, "Oh hi, [Auditor's Name]!" I gave her a big hug and she said, "I want you to know I am so glad your case turned out the way it did." I obviously agreed wholeheartedly. She said, "I don't know how much you paid whoever worked on that for you, but they were worth every penny!" I smiled and said, "I couldn't agree with you more!"

She was sooooo complimentary of your work. She validated my feelings that you were amazing, both creating the System and defending it!

I am again grateful for you standing by your product and doing such a professional job representing my company.

Note: We cannot guarantee that regulators will be happy when you win and cost them money. We can help you prepare for the day when they come knocking, however. We are grateful that this company called for help a year before the audit occurred.

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