



What Rhode Island Businesses Should Know About Worker Misclassification

Article 8 of the fiscal year 2015 state budget enacted in June 2014 created the **Joint Task Force on the Underground Economy and Employee Misclassification**. This panel's purpose is to 1) coordinate joint efforts to combat fraudulent employment activities; 2) foster voluntary compliance with the law by educating workers and employers; 3) protect the health, safety and benefit rights of workers; and 4) work to level the playing field to increase fair competition among businesses.

What is Worker Misclassification?



It's a big problem nationally and here in Rhode Island. The US Government Accountability Office reports that the underpayment of Unemployment Insurance and Workers' Compensation premiums and Social Security and income taxes costs billions of dollars annually.

Employee or Independent Contractor?

Employers who get that question wrong face stiff penalties. For workers, being misclassified can mean not qualifying for benefits if they are laid off or hurt on the job.

This task force's job is to educate, not violate.

Who is an employee?

Anyone performing services for an employer who controls **what** will be done and **how** it will be done by the worker. What is important is whether or not the employer has the right to control the details of the services being performed.

Who is an independent contractor?

Independent contractors have an independent trade, business or profession. Their services are offered to the public. Independent contractors have the right to control the means and methods of how the work is performed.

What if I have a contract listing me as an independent contractor?

A written contract is not enough. If the employer retains the right to control what will be done and how it will be done, the individual is performing services as an employee.

RI Requirements

- Rhode Island employers must generally withhold state and federal income taxes, Social Security and Medicare taxes
- Employers must pay taxes on wages paid to employees
- Employers must pay employee Workers' Comp premiums
- Businesses do not withhold or pay taxes to independent contractors

Learn more about Worker Misclassification at our seminar coming soon to your area! For details, visit www.tax.ri.gov/taskforce.

If you believe that you are, or someone you know is, being intentionally misclassified to avoid tax payments, workers' compensation coverage, and/or other legal obligations, report the concern to the Tip Hotline at (401) 574-8477.

For more information, contact Philip D'Ambra, Chief Revenue Agent, Division of Taxation, at (401) 574-8785 or Philip.Dambra@tax.ri.gov.