

Let's Schmooze

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Which one to use ~ Form W-2 or Form 1099?

What's a W-2 employee? What's a Form-1099 independent contractor? For decades these questions have been critically important in human resource, and great pains have been taken to maintain the distinction. Lawsuits have been filed, and cases have been heard and rendered. In fact, the number of court cases filed may have gone up in recent years ~ the issue is that important.

Court rulings have affected millions of people, and have impacted billion-dollar budgets ~ both corporate and government. The nitty-gritty issues turn on employee benefits, income & social security tax withholding, workman's compensation, etc.

From an employer's standpoint, it can be much more expensive to hire an employee than an independent contractor. Independent contractors pay their own taxes, and don't get employee benefits.

So, what is the difference between an employee and an independent contractor? How are these two classifications alike, and not alike?

One of the main similarities is that in both cases ~ whether the hired person is classified as an employee or as an independent contractor ~ the hired person is told the nature of the job that needs to be done. In other words, the employer tells the hired person what they need to accomplish in order to earn their wages (employee) or fees (independent contractor).

One of the main differences between the employee and the independent contractor is in how the assigned task is accomplished. Generally, if the hired person is an employee, the

employer not only tells the hired what needs to be done, but also exactly how to go about doing it. That is, the employer not only dictates the task, but how it is to be accomplished, down to minute detail if necessary.

On the other hand, if the person is hired as an independent contractor, they are also told what the job is, but left to their own discretion as to how to go about doing the job. The employer does dictate the task, but not how it is to be done. Detail is left to the hired independent contractor.

This particular distinction has been a major thrust of legal arguments in courtrooms around the country. Those legal battles are still ongoing, and globally there are billions of dollars at stake for both corporations and paid labor. A recent instance is the travail of Uber and its employees.

For those of you thinking of setting up a small business enterprise, consider carefully how you wish to document your employees. Just how tightly are you going to boss them around?

After all, you don't want to follow Uber into the courtroom, right!

~ 'til we meet again ~