

WORKER MISCLASSIFICATION

A business may pay an employee and an independent contractor for the same or similar work, but there are important legal differences between the two. Misclassification of workers occurs when an employer incorrectly classifies workers as independent contractors rather than employees. Employers that misclassify workers may not be making appropriate withholdings or tax payments for their employees.



EMPLOYEES

- ✓ Paid hourly or salary
- ✓ Receive W-2 Form from Employer
- ✓ Work for a single employer
- ✓ Continuing relationship with employer
- ✓ Receive instructions from employer
- ✓ Applies for a position, interviews and is hired by the employer



CONTRACTORS

- ✓ Paid by the job or on a fixed schedule
- ✓ Receive 1099 Form
- ✓ Work for multiple employers
- ✓ Temporary relationship until project is done
- ✓ Decide when and how to do the work
- ✓ Contacted by company needing services, submits a proposal and signs a contract

Intentional misclassification of workers is illegal and constitutes tax and insurance evasion. Employers engaging in this practice may be subject to significant penalties and fines from KDOL and the Kansas Department of Revenue. To report misclassification to the Kansas Department of Labor, email kdol.uitax@ks.gov. For a full description of these roles, visit www.irs.gov/businesses/small-businesses-self-employed/independent-contractor-self-employed-or-employee.