

**Dear HR Knowledge, what should I know about hiring independent contractors?**

When bolstering your workforce, depending on the circumstances, it might seem more beneficial to hire independent contractors as opposed to full-time or part-time employees. However, hiring independent contractors brings additional responsibilities that you need to be aware of to avoid potential misclassification and fines.

**What's the difference between an independent contractor and an employee?**

According to the US Small Business Administration, an employee of a company “performs duties dictated or controlled by others, is given training for work to be done, and works for only one employer.” Independent contractors on the other hand, are self-employed, may have more than one client, keep their own business records, and set their own hours. In a nutshell, if the employer retains any control over the conditions of the employment relationship, the person is not considered an independent contractor.

**Why is classifying independent contractors correctly important?**

Independent contractors have different tax policies from standard employees, and there are classification requirements you must follow as well. The IRS offers assistance on their [website](#) for employers to determine whether or not an employee needs to be classified as an independent contractor for tax purposes. In addition, many states have strict independent contractor rules that go beyond the IRS tax requirements. For example, Massachusetts has enacted an independent contractor law that creates a “presumption” of employee status for purposes of the Commonwealth’s wage laws and requires businesses to meet a stringent [Three Prong Test](#) to overcome this presumption. Recent amendments to this law make the test essentially impossible to meet for a company with workers providing services that are within the company’s usual course of business. The amendments also broaden the law’s applicability, as well as increase the penalties for noncompliance.

**What steps should we take next if we have independent contractors?**

If your business uses independent contractors, we strongly recommend that you conduct a self-audit using the state and federal resources and testing requirements to ensure all your employees are classified correctly. Once you are certain all your independent contractors are classified properly, make sure you have a W-9 on file for each of them. It’s a best practice as well to gather these at the start of the contract, and not at the end of the year. If you do not have a W-9 on file, you should be withholding a standard 28% in backup withholdings.



To help protect your business, ensure that your contractors are invoicing for all agreed-upon work, and that you are paying only based on invoices. If issued a contract from an independent contractor, have it reviewed by an employment attorney, then keep it on file for as long as the contractor is with your company.

### About HR Knowledge

Founded in 2001, HR Knowledge, Inc. is a privately funded company providing integrated outsourced HR services tailored to our clients' needs. Our full array of offerings includes managed payroll, employee benefits administration, and HR consulting and support services, such as training, compliance, custom-built software solutions, and Hiring Process Management™, our comprehensive recruitment service that takes you from finding to onboarding new talent. Our major markets are fast-growing small- and medium-sized businesses, many of which are venture-capital-backed; foreign companies expanding into the states; and charter schools. Partnering with HR Knowledge can reduce your administrative costs, minimize your legal risk, help you find and develop talent, and alleviate the HR burden so that you can focus on your core business.

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