

Businesses operate to make money. And to reach that goal, they often set up every aspect of their operations to trim expenses that lower their profit margin. Sometimes, their money-saving tactics cross the line and violate employment rules. That often happens with employee classification and [workers' compensation](#) issues.

Many workers are told that they are independent contractors. They are paid as independent contractors and issued tax forms that are supposed to be given to independent contractors. But when you look at the reality of their work environment, their working conditions do not meet the standards to be considered as independent contractors. They should be treated as employees.

That matters for a wide variety of reasons. One of the most crucial is the eligibility for workers' compensation benefits. If you've been hurt on the job, you may be able to receive benefits even if you've been paid as an independent contractor.

Why Employers Often Misclassify Employees as Independent Contractors

Employers can save a lot of money by treating workers as independent contractors. For some workers who operate their own businesses, the classification works to their advantage. But most of the time, workers have to pay extra costs, and they miss out on employment advantages when they are wrongfully classified as independent contractors.

When an employer classifies a worker as an independent contractor, they don't have to pay for workers' compensation insurance for that worker. They don't have to pay payroll taxes for that worker. (Instead, the worker has to pay those taxes.) Employers also do not have to pay overtime or minimum wage to workers classified as independent contractors. If they could get away with it, employers could classify all their workers as independent contractors to reduce their direct expenses and administrative burdens. But lawmakers have put provisions in place to ensure that workers have protections when they should be treated as employees.

Independent Contractors are Supposed to Be Truly Independent

A genuine independent contractor is a self-employed entrepreneur who offers services to a variety of different prospective employers through contractual relationships. Independent contractors generally buy their own equipment, set their own hours, and decide how they want to work. For instance, a [welder](#) working as an independent contractor might bring safety equipment such as a helmet and respirator and tools such as a chipping hammer and angle grinder.

Independent contractors often claim a variety of their expenses as deductions on their tax return. They are in business for themselves and they generally are their own boss.

Independent contractors are not eligible to seek workers' compensation benefits if they are injured while working. They are expected to have their own insurance to cover medical needs. Their compensation is not considered wages, so they don't expect to receive wage benefits. They are responsible for the financial success or failure of their venture as a business.

What Makes a Worker an Employee?

It does not matter what an employer chooses as a label for workers, how they are paid, or the tax forms they receive. An employer can pretend that workers are independent contractors by labeling them as such and issuing 1099 tax forms instead of W2 forms that are supposed to be issued to employees. None of that matters. It is the day-to-day working conditions that determine whether a worker is actually an employee eligible for workers' compensation.

Factors That Determine Whether an Employer/Employee Relationship Exists

The [North Carolina Industrial Commission](#) and the [North Carolina Department of Labor](#) rely heavily on the federal government standards to determine when a worker is an independent contractor and when they are an employee. Courts and lawmakers have not established a single bright line test to determine what constitutes an employee. Instead, they look at an array of factors such as:

- How much the worker has invested in their own facilities and equipment
- The degree of control and type of control the business has over the worker
- How permanent the relationship is between the worker and the employer
- Whether the services the worker performs are a part of the organization's basic business enterprise
- The degree to which the worker has opportunities to make a profit or suffer a loss

- The amount of independent initiative, judgement, or foresight the worker must exercise in competition with others to succeed in the business
- How the worker's business is organized and operated

A truly independent contractor usually has at least a degree of control over the days and hours worked, although these may need to fit in with the hours available during a particular job. An independent contractor usually provides their own equipment rather than using tools supplied by the business. The work term of an independent contractor may be short or at least have a defined end date. Employees, on the other hand, are more likely to have an ongoing relationship where the employer determines the days and hours to be worked and controls the way in which tasks are performed.

Factors That Have No Bearing on How a Worker Should be Classified

The U.S. Department of Labor and the U.S. Supreme Court have determined that some factors should have no influence on the determination of whether a worker is treated as an employee with legal protections or as an independent contractor operating independently without protections. One of these factors is the place where work is performed. Workers who operate from their homes or other locations outside of official work premises can still be classified as employees.

Another factor that does not matter is whether there is an official agreement stating that a worker is an employee or independent contractor. It also does not matter whether the worker holds a license or how the worker is paid.

Talk to a Workers' Compensation Attorney if You Were Hurt While Working

Many companies tell workers that they are independent contractors who are not eligible for workers' compensation when the truth is just the opposite. Sometimes, these companies are simply mistaken. Other times, they are deliberately trying to keep their costs artificially low by cheating workers out of the benefits provided by the law for employees.

If you were injured on the job and believe you should be classified as an employee, the team at [Martin & Jones](#) may be able to help you receive medical benefits to treat your injuries and wage benefits to make up for income lost while you are unable to work. We invite you to call us at 800-662-1234 or [contact us online](#) to schedule a free consultation where we can review your circumstances and explain your options.

