

General Employer Considerations for Engaging Independent Contractors

Who are independent contractors?

- Pennsylvania does not have a generally applicable test or rule on independent contractor status.
- Different tests are used to determine independent contractor status.
- The test used is a function of the legal context or industry in which the determination is being made.
- In general, independent contractors:
 - Charge **fees for services** instead of receiving pay checks.
 - Complete a task or service in a **finite amount of time**.
 - Control and are responsible for the **method and manner** of completing the service.
 - Offer their services to the public-at-large such that **they are not economically dependent on one client**.
 - Report and pay all their taxes (not withheld by the employer engaging them).

Who are employees?

- Several Pennsylvania and Federal laws govern employee relationships with employers.
- Generally, employees:
 - Receive wages on a **regular basis**.
 - Participate or are eligible to participate in **employer benefits**.
 - Work for a **continuous period of time** performing different tasks at the direction of the employer.
 - Have **taxes withheld** from their wages.
 - Work exclusively for the employer and are **economically dependent on the employer**.

Misclassifying Workers

- The context and industry in which misclassification occurs dictates the penalties and remedies.
- Misclassification can be expensive to defend and costly to remedy.
- An analysis of an employer's workforce should be conducted to ensure proper worker classification.



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