INDEPENDENT CONTRACTOR v. EMPLOYEE

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IMPORTANT TO PROPERLY CLASSIFY WORKERS

• Wage/ Hour
• Taxes
• Unemployment
• Workers’ Compensation

KEY QUESTION-

• Employer Control
  Does Employer Control Outcome of Work vs. Controlling the Performance of the Work in a Particular Way
INDEPENDENT CONTRACTOR TESTS

• Numerous Test to Determine Independent Contractor Status – Depends Upon Applicable Government Agency
• IRS 20 Factor Test – Most Comprehensive Test

KEY FACTORS TO MAKE DETERMINATION

• Employer Control over the Worker
  – Behavioral Control
  – Employer Control over what the Worker Does and How the Worker Does the Job

FINANCIAL CONTROL

• Investment in Employment
• Services Available to Market
• Method of Payment
TYPE OF RELATIONSHIP

• Independent Contractor Agreement
• Benefits
• Permanency of Relationship
• Integration
  – Are services a key activity to the business?

CONSEQUENCES OF MISCLASSIFICATION

• IRS/Payroll
• Wage/Hour
• Work Comp.
• Unemployment

Practice Tips
1. Independent Contractor Agreement
2. Invoices
3. Work Comp. Coverage
4. Provide Worker With Independence
5. Worker Provides Tools/Supplies/Work Location

Questions?