

Business point



If you assume wrong, you may be working your way toward a bigger tax bill.



Editor's note: Kent Vickre and Dwight Raab write a tax and finance column for each issue of Pioneer GrowingPoint® magazine. Vickre is state coordinator of the Iowa Farm Business Association. Raab is state coordinator of Illinois Farm Business Farm Management. They address issues that influence agri-business success.

Is your worker an employee or contract labor? Answering this question incorrectly could cost you dollars!

In recent years, the Internal Revenue Service (IRS) and state tax agencies have increased their efforts to find misclassified workers. To help explain how misclassified workers could impact your farming operation, here's an overview of "employees" versus "independent contractor" classifications and filing requirements for each.

A worker is classified as an employee for purposes of Federal Insurance Contributions Act (FICA) tax if he or she is:

- A common-law employee
- A corporate officer
- Defined by statute as a "statutory employee"
- An employee covered by an agreement under Section 218 of the Social Security Act.

Factors to understand

In this article, we'll limit our discussion to "common-law" employees because this typically affects agriculture producers. IRS and Social Security administrators have

compiled a list of 20 factors used in the past to determine a worker's status. However, the basis for these factors and determining a worker's classification (employee versus independent contractor) are:

- **Behavioral control:** Behavioral control refers to facts that show whether the operator has a right to direct or control *how* the worker does the work. A worker is an employee when the business has the right to direct and control the worker. In general, if the operator gives instructions of "how" the job is to be done versus the "end result," the person is an employee. Types of instructions the operator may give an employee include when and where to do the work and what tools or equipment to use.
- **Financial control:** This refers to the extent to which the business has control economically or financially over the worker's duties. Considerations include significant investment, unreimbursed expenses, opportunity for profit or loss and how the worker is compensated (hourly or per job).
- **Type of relationship:** This considers the character-

How to classify workers	
Employee	Independent contractor
Worker's hours set by business	Worker sets own hours
Compensation based on hours worked	Compensation paid per job
Typically works for one employer	Works for various businesses
Works under operator control and direction	Typically works independent of operator control
Business provides training to worker	Worker provides own training to complete job



istics of the producer-worker relationship. Considerations include the availability of employee benefits, worker contract and length of employment.

Based on the factors and circumstance of these three characteristics, workers are either classified as an employee or contract labor. The table at the bottom of page 14 provides a quick summary of several key factors to help classify the workers.

Paperwork requirements

Reporting requirements may vary due to the type of work (farm or non-farm) and different state requirements. The most common considerations for an employee or independent contract are:

Employee:

- Compensation is reported on a W2 form
- W4 and I9 forms are required
- Federal and state tax is withheld
- Social Security and Medicare tax is withheld and matched by employer
- Compensation is subject to Federal Unemployment Tax Authority (FUTA) and State Unemployment Tax Authority (SUTA)
- Worker Compensation Insurance (depending on state law)
- Participation in employer benefits, if eligible (health or retirement)
- All tax and withholding deposits made per IRS and state guidelines.

Independent Contractor:

- W9 Form (request for taxpayer's identification and certification)
- Registration with state (depending on state law).

As you can see, employees require more paperwork and time than do independent contractors.

The possible penalties

Incorrectly classifying a worker as an independent contractor may make you liable for:

- Employment tax liabilities and penalties
- Possible insurance liabilities
- Worker compensation. Worker compensation is administered on a state-by-state basis, so your liability will depend on state law. Know how your state laws affect you. If your independent contractor is reclassified as an employee, you may be liable for any injuries.
- Unemployment issues. Unemployment benefits (FUTA and SUTA) are only paid on employees. Only employees can collect if their position is terminated. Note: This usually becomes an issue when a worker who's been treated as an independent contractor applies for unemployment claiming to be an


employee. If there's a question of the worker's true status, the agency will likely review your business practices.

- Employee-qualified benefits (retirement and health): If a business misclassifies workers as independent contractors, the employer's retirement plan could be disqualified if it doesn't pass certain tests.

Get official determination

If you're not sure how your workers should be classified, you can ask the IRS to make a determination by filing a Form SS-8, "Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding." However, it can take up to six months to receive an "official" determination. This form is available to both workers and employers.

For more information on this subject, see these references:

- Independent Contractor or Employee (<http://www.irs.gov/pub/irs-pdf/p1779.pdf>)
- Employee vs. Independent Contractor — Seven Tips for Business Owners (<http://www.irs.gov/newsroom/article/0,,id=173423,00.html>)
- IRS Publication 1779: Independent Contractor (Self-Employed) or Employee (<http://www.irs.gov/businesses/small/article/0,,id=99921,00.html>)
- Publication 15-A, Employer's Supplemental Tax Guide, Supplement to Publication 15 (<http://www.irs.gov/pub/irs-pdf/p15a.pdf>) 

8109 coupons are history

Are you making Federal Tax deposits using the 8109 paper coupon? Starting this year, the paper IRS Form 8109 or "blue coupon" no longer is an acceptable form of deposit. This "paper" coupon system is no longer being maintained by the Treasury Department.

Hence, you need to make all deposits via Electronic Federal Tax Payment System (EFTPS). There are a few exceptions, such as a business whose tax liabilities are below the limits or some payments that will be allowed with the paper return.

Using the EFTPS system allows taxpayers to make deposits online or by telephone 24 hours a day, seven days a week. For information on EFTPS, and how to enroll, go to www.eftps.gov or call EFTPS customer service at 1-800-555-4477. 