

Let the EDD Help!

Don't be taken by surprise! Avoid unplanned tax liabilities by properly classifying your workers.

For questions regarding an employment relationship, you can request that the Employment Development Department (EDD) provide a written determination by completing a *Determination of Employment Work Status for Purposes of State of California Employment Taxes and Personal Income Tax Withholding*, DE 1870. To obtain this form, access the EDD website at www.edd.ca.gov/pdf_pub_ctr/de1870.pdf.

For further assistance, please contact the Taxpayer Assistance Center at 1-888-745-3886 or visit the nearest Employment Tax Office listed in the *California Employer's Guide*, DE 44, and on the EDD website at www.edd.ca.gov/Office_Locator/.

The EDD can also provide guidance on employee or independent contractor issues, general information sheets on various classes of employment, and information regarding any of our upcoming no-fee payroll tax seminars.



STATE OF CALIFORNIA

LABOR AND WORKFORCE DEVELOPMENT AGENCY

EMPLOYMENT DEVELOPMENT DEPARTMENT

Phone: 1-888-745-3886
www.edd.ca.gov

The EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Requests for services, aids, and/or alternate formats need to be made by calling 888-745-3886 (voice) or TTY 800-547-9565.

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Is your worker an employee or
independent contractor?

Don't Be Taken by Surprise!



Avoid unplanned
tax liabilities by
properly classifying
your workers.

If you have a business and pay other people to do work for you or on behalf of your business, you may be surprised with an unanticipated tax liability if a worker you consider to be an independent contractor files a claim for Unemployment Insurance or State Disability Insurance benefits.

That worker may actually be an employee and you would be responsible for past and present employment taxes for that individual.

A written contract by itself may NOT protect you from liability.

The most important factor in determining whether a worker is an employee or independent contractor:

Does the employer have the right to control the manner and means by which the worker performs his or her services?

Other key factors to consider are:

- The right to discharge the worker at will is strong evidence of the right of direction and control of the worker.
- The worker is not in a distinct trade or occupation.
- The work is not highly skilled or specialized.
- The work is usually done under supervision.
- The worker does not provide the tools, equipment, and place of work.
- The work is long term or continual, not an isolated event.
- The worker is paid based on time worked or piece rate.

- The work is not separate from the regular work, business, or services provided by the employer.
- The actual practices of the working relationship between the parties are different from the terms of their independent contractor agreement.
- The worker has little or no meaningful discretion over how to do the job.

Employee by Specific Statute of Law

A worker not considered to be a common law employee may be a statutory employee by law. Some examples are:

- Unlicensed construction subcontractors
- Route salespersons
- Commission and agent drivers

Refer to *Information Sheet: Employment, DE 231.*

