



Worker Classification: An Overview and Recent Developments

June 16, 2020

1

Notice

The following information is not intended to be “written advice concerning one or more Federal tax matters” subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230.

The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.



© 2020 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved. NDP085440-1A

2

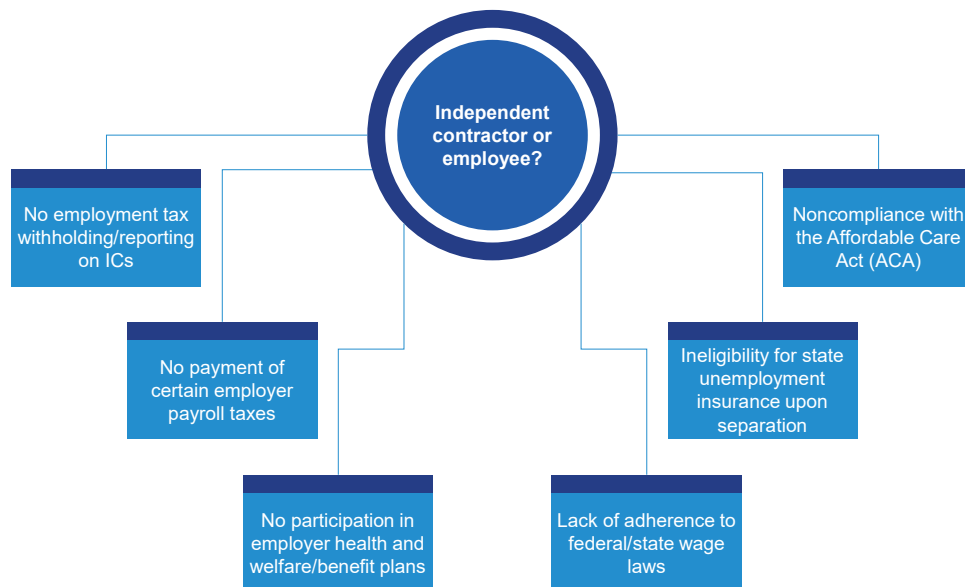
2



Worker classification: what is the issue?

3

Worker classification What is the issue?



© 2020 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. NDP085440-1A.

4

4

Internal Revenue Code (IRC) definition of an employee

Any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of:

- Employee;
- Corporate Officer
- Statutory employees (Independent Contractor for benefits purposes).

5

State definition of an employee



Can be slightly different than the IRS test, and is followed in about 2/3 of the states

The worker is free from control or direction in the performance of the work

The work is done outside the usual course of the company's business and is done off the premises of the business

The worker is customarily engaged in an independent trade, occupation, profession, or business

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Worker Classification: An Overview and Current Developments

Also available as part of the eCourse

[2021 Higher Education Taxation eConference](#)

First appeared as part of the conference materials for the
2021 Higher Education Taxation Institute session

"Worker Classification: An Overview and Current Developments"