Being an Independent Contractor vs. Employee

Maybe you've never thought about the difference between being an employee and being an independent contractor (also called a "consultant"). In many respects, there seems to be no difference at all. Often, independent contractors and employees work side by side at the same company, even doing the same or similar work.

But there are very important legal differences between being a contractor and an employee.

These differences go beyond job title. In fact, sometimes the job title doesn't match the legal classification-and sometimes job titles are changed to get around legal obligations. Your employment status affects many issues such as employment benefits, tax implications, and liability. If you are accepting a job offer to be an independent contractor, you should know some of the key differences.

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| **EMPLOYEE** | **INDEPENDENT CONTRACTOR** |
| Usually works for only one employer. | Generally provides consulting services to more than one company. |
| Works the hours set by the employer. | Sets his or her own hours. |
| Usually works at the employer's place of business. | Works out of his or her own office or home. |
| Often receives employment benefits, such as health and disability insurance. | Does not receive employment benefits from the employer. |
| Works under the control and direction of the employer. | Works relatively independently. |
| Accomplishes tasks in the manner the employer has requested. | Has the authority to decide how to go about accomplishing tasks, and does so without the employer's input. |
| Tends not to incur costs or make investments in the work. | Incurs the costs associated with performing the job. |
| Has a general education and experience background, and receives special training from the employer in order to do the job better. | Has acquired very specialized skills and comes to the work relationship with a particularized education and experience background. |
| Receives net salary after employer has withheld income tax, Social Security and Medicare tax under the Federal Insurance Contributions Act (FICA). | Is not subject to tax or FICA withholding, but pays his or her own self-employment tax. |
| Will likely be eligible to receive unemployment compensation after lay off or termination. | Is not eligible for unemployment compensation benefits. |
| Will receive worker's compensation benefits for any workplace injury. | Is not eligible for worker's compensation benefits. |
| Generally (unless employment is "at will") can be terminated by the employer only for good cause and with notice. | Generally (unless the consulting contract is for a specified term) can be let go by the employer for any reason, at any time. |
| Is covered by federal and state wage and hour laws such as minimum wage and overtime rules. | Is paid according to the terms of the contract, and does not receive additional compensation for overtime hours worked. |
| Has the protection of workplace safety and employment anti-discrimination laws. | Usually is not protected by employment anti-discrimination and workplace safety laws. |
| May be entitled to join or form a union. | Is not entitled to join or form a union |

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