Independent Contractor Procedures
Auditors crack down on 'independent contractors'

By Nancy Melin Jackson, odid Bidding writer
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(CNNMoney.com) -- If your business uses independent contractors, get ready for new scrutiny. Hoping to boost tax revenue, the IRS and many state governments are cracking down on how companies classify their workers.

When employers report wages for independent contractors on IRS Form 1099, rather than a W-2, they aren't required to pay unemployment insurance, worker's compensation insurance or payroll taxes for them. But the rules governing which workers are genuinely 'independent' are strict -- and often flouted.

The Internal Revenue Service launched a program last month that will randomly examine 6,000 companies over the next three years for employee misclassifications. The federal government estimates it will raise $7 billion over the next 10 through tighter enforcement.

The IRS audit program is just the beginning of what will be "a new era of compliance," says Gene Zeino, president and CEO of MBO Partners, a services firm that specializes in the independent contractor market. "Most states are now sharing data with the IRS, and many have set up task forces specifically to address misclassification. It used to be that if a business ran into trouble with a state labor department or with the IRS, the issue was isolated. Now, any kind of audit or compliance finding can set off a domino effect where the other agencies will get in on the action."

Getting audited can be scary even for businesses that keep everything by-the-book, Chris Daly, co-owner of Kinesprint fitness studios in New York City, got an audit notice in January from the New York State Department of Taxation's Unemployment Insurance Division, which wanted to probe Kinesprint's use of contractors. Like more...
<table>
<thead>
<tr>
<th>IC</th>
<th>EMPLOYEE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsible for paying your own taxes. WMU does not withhold taxes</td>
<td>WMU must withhold income tax and social security</td>
</tr>
<tr>
<td>Additional business deductions available</td>
<td>WMU must pay social security and give W-2</td>
</tr>
<tr>
<td>Work comp and liability issues limited</td>
<td>Work comp and other liability issues</td>
</tr>
</tbody>
</table>
Three major determining factors

1. Behavioral Control
2. Financial Control
3. Relationship of the Parties
IC

1. less extensive instructions
2. What should be done but not how
3. Timelines and deadlines are OK
4. No Training should have the expertise

EMPLOYEE

1. Instructions such as how, when or where to do the work
2. Direct and Control the worker
3. Hours of work
4. Training provided
Financial Control

<table>
<thead>
<tr>
<th>IC</th>
<th>Employee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Significant Investment in equip and/or staff</td>
<td>Nothing substantial and no precise amt</td>
</tr>
<tr>
<td>Expenses not reimbursed</td>
<td>Travel, moving are</td>
</tr>
<tr>
<td>Opportunity for $$ gain or loss</td>
<td>Not a real $$ risk</td>
</tr>
</tbody>
</table>
Relationship of the Parties

<table>
<thead>
<tr>
<th>IC</th>
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</tr>
</thead>
<tbody>
<tr>
<td>No benefits, work comp, pension</td>
<td>Most have but some may not.</td>
</tr>
<tr>
<td>Written contracts to show intent between 2 parties</td>
<td>Most hired through H/R</td>
</tr>
<tr>
<td>Not an ongoing relationship</td>
<td>There is an ongoing relationship</td>
</tr>
</tbody>
</table>
Complete IC questionnaire and contract
Submit to Business Services
Business Services will send back to requester after approval/disapproval
If approved, a copy of the agreement and questionnaire should be attached to a payables voucher and forwarded to Accounts Payable (along with an invoice) for payment.
PROCEDURES - NONRESIDENT

- Complete IC questionnaire and contract
- If contract is with a nonresident alien, 30% Federal tax will be automatically withheld
- If nonresident alien IC wishes to claim exemption from tax under a treaty between the U.S. and their country, contact the Corporate Reporting and Taxation office at (269) 387-2981 BEFORE sending the questionnaire and contract to Business Services
PROCEDURES – NONRESIDENT

- In order to claim exemption, if there is one available, the nonresident alien must complete and submit Form 8233 to Corporate Reporting and Taxation BEFORE contract is sent to Business Services.

- The nonresident alien must have either a social security number or U.S. tax number in order to complete Form 8233.
The completed questionnaire and contract is sent to Business Services.

All nonresident IC contracts are reviewed by Business Services and Corporate Reporting and Taxation.

After the IC contract is approved/disapproved it is sent back to the requester, who should attach both the contract and questionnaire to a payables voucher and submit to AP.
Employees are not to be paid as independent contractors

Example: A faculty member does some side work for another faculty member on the graphics for his book, the cost of which will be reimbursed by WMU

Departments need to take care to identify such payments in reimbursement requests
Please remember

- Social Security numbers, please adhere to our policy.
- Any questions contact Business Services, Tim Kellogg (7-4827) Timothy.Kellogg@wmich.edu
- International Julie Carroll (7-2981) Julie.Carroll@wmich.edu