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NEWS & INFORMATION

[Who Is Paying the Jurors - The Employer, the Government or Both?](#)

Many jurors are hesitant to serve because employers are reluctant to pay them for jury duty. Know your obligations to employees serving as jurors. [Read More](#)

["Helicopter Parents" and Hiring...Who Are They and What Employers Need to Know](#)

"Helicopter parenting" is no longer limited to home and school activities, or even college applications - helicopter parents are invading the workforce. Learn how helicopter parents affect the workforce. [Read More](#)

[Alert - IRS Rewarding Employees and Contractors that Turn in Employers](#)

A watchdog organization urges employees to report misclassification of employees as subcontractors. Learn what employers need to know about misclassification. [Read More](#)

Alert - IRS Rewarding Employees and Contractors that Turn in Employers

The Corporate Whistle Blower Center, a watchdog organization devoted to going after employers that commit tax fraud, is urging individuals to come forward if they have proof that employers are engaging in tax fraud by misclassifying workers. According to the group, employers that misclassify full-time employees as 1099 subcontractors are prevalent in home building, meat, poultry, manufacturing, and other service type businesses.

According to the organization, "The 1099 tax fraud scheme is the oldest trick in the book when it comes to big companies cheating the IRS out of taxes." The Center estimates that the size of this scheme amounts to tens of billions of dollars and urges individuals to report information about employers that misclassify workers with the possibility of receiving an Internal Revenue Service (IRS) tax fraud reward. "Corporate Whistle Blower Center Urges Individuals With Proof Big Employers Were Misclassifying Their Workers To Step Up For Huge IRS Rewards," [www.sfgate.com](#) (June 6, 2011).

Commentary

Employers use Form 1099s for payments of \$600 or more to subcontractors.

The courts have considered many factors in deciding whether a worker is a subcontractor or an employee.

According to the IRS, they are divided into three categories. First, *behavioral control* evaluates whether the employer has the right to direct and control how work is performed. Second, *financial control* evaluates whether the employer has the right to direct and control the economic aspects of the work. For instance, which party has the most significant investment, pays expenses and has the greatest opportunity for profit or loss? Finally, courts look to the *relationship of the parties* to determine how the employer and the worker view the relationship.

Prior to December 2006, the IRS offered little incentive for individuals to report tax fraud. However, Congress has since adopted an IRS whistleblower rewards program to help combat an estimated \$400 billion in unpaid taxes each year.

Under the IRS's whistleblower provisions, codified in 26 U.S.C. §7623, an individual who discloses tax fraud is eligible to receive an award ranging from 15 percent to 30 percent of the proceeds recovered by the Agency. Even employees who participate in the wrongdoing can recover if they did not plan or initiate the violation and are not criminally charged.

To minimize the risk of liability, employers should routinely assess and reclassify subcontractors as employees where needed. Classifying 1099 workers is tricky because the tests used to determine whether a worker is an employee v. subcontractor are subjective and differ from state to state. Employers should seek the advice of an employment law attorney as well as their accountant to ensure proper classification.

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