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yogalose

**GUIDE TO CONVERTING  
INDEPENDENT  
CONTRACTORS TO  
EMPLOYEES**

## *Introduction*

Independent contractors and employees are not the same, and it is important for yoga studios to understand the difference. Knowing this distinction will help yoga studios make sound hiring decisions, and will also help yoga studios avoid costly legal consequences.

## *Who is an Independent Contractor?*

The general rule is that an individual is an independent contractor if the yoga studio has the right to control or direct only the result of the work and not what will be done and how it will be done. An independent contractor usually:

- Operates under a business name
- Advertises his/her business' services
- Invoices for work completed
- Has more than one client
- Has own supplies and materials and sets own hours
- Keeps business records

## *Who is an Employee?*

An employer-employee relationship exists when a person who hires an individual to perform services has the right to exercise control over the manner and means by which the individual performs his or her services. The right of control, whether or not exercised, is the most important factor in determining the relationship. A written contract that claims to create an independent contractor relationship is not sufficient if the practice of the yoga studio and instructor shows that the yoga studio retains the right to exercise direction or control. Generally, an employee:

- Performs duties dictated or controlled by others
- Is given training for work to be done

## *Consequences of Misclassification*

Many yoga studios classify yoga instructors as independent contractors. There are many benefits to using contractors over hiring employees because there may be savings in labor costs, reduced liability for the yoga studio, and yoga studios maintain flexibility in hiring and firing. However, misclassification of an individual as an independent contractor may have a number of costly legal consequences. If a yoga studio's independent contractor is discovered to meet the legal definition of an employee, the yoga studio may be required to:

- Reimburse the instructors for wages the yoga studio should have paid him or her under the Fair Labor Standards Act, including overtime and minimum wage
- Pay back taxes and penalties for federal and state income taxes, Social Security, Medicare, and unemployment
- Pay any misclassified injured employees workers' compensation benefits
- Provide employee benefits, including health insurance, retirement, etc.



# *Transitioning from Independent Contractors to Employees*

## **Step 1**

Review the Internal Revenue Service and your state's guidelines regarding when a worker should be treated as an employee rather than an independent contractor. Identify all contractors who work for you that will receive a 1099 at the end of the tax year and need to be converted to a W-2 under the same guidelines.

## **Step 2**

Have an all-staff meeting to discuss the transition. Be prepared to answer questions teachers may have about the process, the new relationship, and how they will be impacted.

## **Step 3**

Create new job descriptions for employees. One of the benefits to studio owners using the employer-employee model is that they are able to ask their teachers to market for the business, do jobs to support day-to-day operations, and have control over how classes are taught. As contractors, teachers are legally free to instruct as they wish, but with the employer-employee model, the studio owner has more control over job performance through the employment agreement. Job descriptions allow studio owners to articulate their vision for the business and the terms of the employee's relationship with that business. This provides students with a more consistent experience, and builds a stronger business.

## **Step 4**

Require every employee to sign an employment agreement and appropriate federal and state tax forms. In addition, there are various federal and state forms and reports that the studio owner is required by law to file. Yogalese, LLC recommends that you get expert guidance from your tax professional or a local employment lawyer to make sure that you comply with all of the tax and employment laws.

## **Step 5**

Set up a pay schedule commensurate with the type of regular employee classification the contractor will become. Establish triggers for payment of overtime after 40 hours of work a week if the new employee is to be an hourly employee.

## **Step 6**

Require the new employee to complete a W-4 form providing individual information and tax exemptions to be calculated when determining payroll withholding taxes. Input the new employee into your employee database, timekeeping system, and payroll service as needed.

## **Step 7**

Generate a completed W-2 form for the new employee before Jan. 31 for the preceding tax year reporting wages, taxes withheld, and other information required on the form. Send four copies to the employee for various tax filing requirements. Keep one copy for your own business records and send one copy to the Internal Revenue Service, and, if applicable, send one copy to state and/or municipal tax authorities.

# Additional Resources

## **Internal Revenue Service**

Federal guidelines on worker classification as well as related forms are available at: <https://www.irs.gov/businesses/small-businesses-self-employed/independent-contractor-self-employed-or-employee>.

## **Fair Labor Standards Act**

The Fair Labor Standards Act establishes minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in Federal, State, and local governments. More information can be found at: <https://www.dol.gov/whd/regs/compliance/hrg.htm>.

## **Workers' Compensation Law**

For information about worker classification for purposes of unemployment compensation tax reporting visit your state's workers' compensation website.

