
WHAT IF YOUR EMPLOYER DOESN'T TAKE TAXES OUT?

WHAT'S THE DIFFERENCE BETWEEN AN EMPLOYEE & AN INDEPENDENT CONTRACTOR?

If you are an employee, both you and your employer pay Social Security Tax and Medicare Tax on your wages. You pay half of these taxes and your employer pays the other half of these taxes. These amounts are shown on your W-2 forms and your paycheck stubs and are deducted from your paychecks. If you are an independent contractor or self-employed, you are responsible for paying all of the Social Security and Medicare Tax, which is also called self-employment tax. The Social Security and Medicare Tax, or self-employment tax, is in addition to the income tax that you pay on your income when you file your return. The tax for Social Security and Medicare is 15.3% of the net profit that you earned from your work or business.

HOW DO I KNOW IF I AM AN INDEPENDENT CONTRACTOR?

Generally, if your employer treats you as an independent contractor, your employer will give you a 1099-Misc to show what you earned instead of a Form W-2. Similarly, if you are paid in cash and taxes are not withheld from those payments, you are considered an independent contractor. If you are unsure if you are an independent contractor, ask yourself the following questions:

- Do you set your own hours, or are you required to report for work at the same time each day?
- Do you bring your own tools and supplies to the job site, or does your employer provide these things for you?

- Do you decide how to do your job, or does your employer control the job site?

The more control you have over your work hours and the way you perform your job, the more likely it is that you are an independent contractor.

Did You Know? If you are an independent contractor, you are required to make estimated quarterly payments towards your tax liability throughout the year.

WHAT ARE MY RESPONSIBILITIES IF I AM AN INDEPENDENT CONTRACTOR?

If you earn more than \$400 in **net** self-employment income, that is the income you receive as an independent contractor, and you must file a federal income tax return and report that income. Net self-employment income is the payment that you received from your job less your deductible business expenses. For example, if you provide daycare in your home, you might receive \$5,000 in payments from parents for children that you cared for while the parents worked. You might also spend \$3,000 in food, toys, diapers, and other items for the children. Your net self-employment income would be \$2,000, the \$5,000 payments received minus \$3,000 in expenses to care for the children. Your tax advisor can help you determine which expenses are deductible.

If you think that you will owe \$1,000 or more in tax, including self-employment tax, when you file your tax return, you must make estimated payments towards your taxes. Even if you are not authorized to work in the United States, you are required to make estimated quarterly payments towards your tax liability. These

estimated payments will prevent you from owing a large amount of tax at the end of the year.

You may be able to avoid making estimated payments if you have another job and you have enough taxes withheld from your other wages to cover your tax liability at the end of the year. You can use IRS Form 1040-ES to figure out the amount of your estimated quarterly payments.

HOW DO I KNOW WHAT MY ESTIMATED PAYMENTS SHOULD BE?

Your estimated quarterly payments are based upon what you earned last year. Use IRS Form 1040-ES to calculate your estimated payments available on the IRS website at www.irs.gov.

HOW DO I MAKE MY ESTIMATED PAYMENTS?

You must have a social security number or an ITIN to make your estimated payments. If you do not have a social security number or an ITIN, you need to get one. If you are not eligible for a social security number, you must complete IRS Form W-7 to request an ITIN and attach it to a federal income tax return. The ITIN is a number similar to a social security number, but it is used for tax purposes only. The ITIN does not authorize you to work in the United States.

WHAT KINDS OF RECORDS SHOULD I KEEP?

It is very important to keep accurate records to track your self-employment income and expenses, particularly if you are paid in cash. If you are an independent contractor, you should keep track of all payments you receive for your work, including all cash payments. Consider getting a notebook to keep track of your information. Each time you are paid, write down the following:

- The date you were paid
- How much you were paid
- Who paid you, and
- A brief description of the work you completed.

If you deposit your payments into a bank account, be sure to keep copies of all of your bank statements. You should also save the receipts for any supplies or other items that were purchased in order to carry out your work. You may be able to deduct these items as business expenses when you file your return. For example, if you clean houses, the cleaning supplies you buy to do your job are deductible business expenses. These deductions reduce your net self-employment income, which reduces your tax. Your tax preparer can help you determine which of these items are deductible and which are not. You must keep these records with your tax returns for at least three years. The law requires that you keep records to verify your income and deductions claimed on your return. If the IRS examines your return, you will need to have these records to verify the income and expenses that you reported on your return.

WHAT IF I DISAGREE THAT I AM AN INDEPENDENT CONTRACTOR?

If you think that your employer is treating you as an independent contractor and you believe you are an employee, you can complete IRS Form SS-8 and ask the IRS to decide on your correct worker status. The IRS will then contact your employer and ask for information about your job to decide whether you should be an employee.

For more information, please contact
The Community Tax Law Project
Phone: (804) 358-5855 or (800) 295-0110
Email: info@ctlp.org Website: www.ctlp.org

This information is not legal advice. We are providing this information as a public service. We have tried to make it accurate as of the date below, but keep in mind that tax laws change frequently.

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