

How to Correctly Classify Your Employees



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Simply put, an employee is someone who works for your business. However, the true definition of employee can go deeper than that. You may have several types of employees on your team, including:

- 1** Full-time employees
- 2** Part-time employees
- 3** Temporary employees
- 4** Independent contractors
- 5** Statutory employees and statutory non-employees
- 6** Interns
- 7** Volunteers

As your business grows, you may choose to work with several types of employees. Each can contribute to the overall good of your organization, and will serve a different purpose within your business.



And each employee needs to be classified differently. Knowing how to classify your employees is important. Classification impacts how you interact with people on your team; failing to properly classify your employees can have costly consequences.

For example, if you label someone who is a full-time or part-time employee as an independent contractor, you will not pay the proper taxes, and may find yourself saddled with hefty fines. Employee classifications also help you determine who should receive which benefits.

This guide defines each type of employee, so every person in your organization works under the correct classification.

1 Full-Time Employees

According to the IRS

“Anyone who performs services for you is your employee if you can control what will be done and how it will be done. This is so even when you give the employee freedom of action. What matters is that you have the right to control the details of how the services are performed.”



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Full-time
Employee

30-40
Hours/Week

This type of worker is otherwise known as a common-law employee.

Generally, businesses regard individuals who work between 35 and 40 hours a week as full-time employees. You may even choose to classify someone who works only 30 hours a week as full-time.

A full-time employee may occasionally have to work more than 40 hours a week; when this happens, the Fair Labor Standards Act (FLSA) requires that you provide overtime pay.

Salaried employees usually receive a flat rate of pay regardless of how much or how little they work, so you will not have to pay them overtime. However, each state has its own laws regarding wages and hours worked, so you should check local regulations.

How can you determine if you should pay your full-time employees by the hour or via salary?

Generally, if you anticipate a lot of big projects that will require overtime, it is best to go with salary. However, if you think that most work weeks will be fairly normal, hourly may be the better choice.

Full-Time employees should receive benefits. In fact, if you have more than 50 employees, the Affordable Care Act requires that you offer some form of health coverage. Other than that, though, the shape of the benefits package you offer is largely up to you.

For full-time employees, the IRS requires that you pay Social Security, income, Medicare, and unemployment taxes.



For Social Security, income tax, and Medicare, you will have to look at each employee's W-4 form to figure out how much to withhold from their pay, as well as to calculate how much you need to give to the government. The federal unemployment tax (FUTA) will come solely out of your own funds.

2 Part-Time Employees

Part-time employees are common-law employees who work for you on an ongoing basis. However, the average number of hours they work per week falls short of what your company defines as full-time.

5 Days/Week



3 Days/Week



You may choose to pay your part-time employees by the hour or via salary. Their rate of pay is generally equivalent to full-time salaried employees but on a prorated basis. For example, **a part-time salaried employee who works three days a week will make 60 percent of what a full-time salaried employee with the same responsibilities takes in.**

People who work for you on a full-time basis will likely receive a broad range of benefits. Many businesses also choose to offer benefits to part-time employees, though on a limited basis. For example, you may offer paid time off to full-time workers but not to those who work part-time. Insurance benefits for part-time employees may also be limited.

What about taxes?

You have to pay the same types of taxes for part-time employees as you do for full-time workers.

3 Temporary Employees

You hire temporary employees for a specific amount of time and to fulfill a certain purpose. For example, if you own retail stores, you might hire more help during the holiday season. If you work in hospitality, you will likely want to add temporary staff to your team during peak travel seasons.



You may find temporary employees through a staffing agency or a talent search that you conduct on your own. You must withhold taxes from temporary employees if you hire them yourself and pay them with a salary or an hourly rate.

However, if your temporary workers are technically employed by a staffing agency, the agency will take care of those details for you. The agency may submit an invoice to you that includes pay for the employee as well as a finder's fee for the agency.

The law entitles temporary employees to Social Security and unemployment benefits, but usually they do not receive other benefits.

When you welcome temporary employees into the fold, you may use the time they work for you as a screening period. If you chose to turn temporary employees into permanent employees, be sure to properly onboard them and offer all the appropriate benefits. Reclassify them in your records.

4 Independent Contractors

Having independent contractors — sometimes called freelancers — on your team is simpler than having common-law employees, since contractors are responsible for taking care of their own taxes, and you do not have to offer them any benefits. Keep in mind that while, in some cases, independent contractors and freelancers are the same thing, this is not always the case.



However, do not give in to the temptation to classify your common-law employees as independent contractors in order to spare yourself financially. If you get caught, you will be fined for each W-2 the employee did not file due to incorrect classification.

You will also owe all the Social Security and Medicare taxes you failed to pay for the employee, as well as a portion of what you did not withhold from the employees' wages, plus interest charges and other penalties.

How do you determine the difference between an independent contractor and an employee?

The IRS provides a detailed explanation. The key element, however, is the amount of control you have over the worker. As an employer, you tell an independent contractor what you want her to accomplish, but you do not have any control over how the contractor achieves the desired result. The contractor may use her own materials and have unreimbursed expenses.

Hiring independent contractors is a solid option when you want to take on extra help for a particular project or for aspects of your business that do not require you to exercise a high level of control.

5 Statutory Employees and Non-Employees

Statutory employees and statutory non-employees are two types of independent contractors. Statutory employees are often salespeople who work on commission. In some cases, you must withhold and pay Social Security and Medicare taxes for statutory employees.

“A statutory non-employee is an independent contractor or self-employed worker whose service may appear to be that of a type of employee called a statutory employee, but whose type of work has been specifically exempted from (sic) such status.”

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Licensed real estate agents are one example of statutory non-employees. In most cases, you can treat a statutory non-employee as an independent contractor for tax purposes.

6 Interns

Hiring interns may be an affordable way to add talent to your team. In most cases, you should treat your interns as temporary employees.

In order to use unpaid interns, the internships have to fulfill the criteria outlined by the Department of Labor:

- 1 The internship, even though it includes actual operation of the facilities of the employer, is similar to training which would be given in an educational environment
- 2 The internship experience is for the benefit of the intern
- 3 The intern does not displace regular employees, but works under close supervision of existing staff
- 4 The employer that provides the training derives no immediate advantage from the activities of the intern; and on occasion its operations may actually be impeded
- 5 The intern is not necessarily entitled to a job at the conclusion of the internship
- 6 The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship

7 Volunteers

Your employees might be willing to stay after hours without pay to get that big project finished on time, but you shouldn't allow them to do so if you operate a for-profit business. Under the FLSA, only non-profit and public sector organizations may accept volunteer help. Even if your business is non-profit or in the public sector, you can't let your employees perform their normal jobs without compensation.

Correct Classification Counts

Correctly classifying your employees can help your business run smoother, and can save you from serious financial consequences. Be particularly aware of the difference between common-law employees and independent contractors. Also, make sure you have the proper forms on file when a temporary employee becomes permanent or when a part-time employee takes on full-time responsibilities.

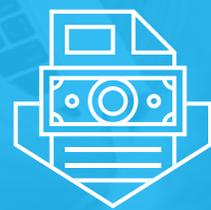
Properly classifying your employees may prove to be a challenge.

You must abide by federal standards as well as local regulations, and all the fine print can leave you feeling dizzy. The compliance experts at Justworks can answer your questions and assist you in obeying all applicable rules.

When you assign the right labels to your employees, you put yourself in a prime position to provide them with the benefits they deserve in accordance with the law. For example, a handful of states require businesses to provide disability insurance. Justworks can help you design a robust, law-abiding benefits package that will help you retain your best talent.



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