

MISCLASSIFICATION OF EMPLOYEES

Source: DOL Wage & Hour Division

The misclassification of employees as independent contractors presents one of the most serious problems facing affected workers, employers and the entire economy.

Misclassified employees often are denied access to critical benefits and protections to which they are entitled, such as the minimum wage, overtime compensation, family and medical leave, unemployment insurance, and safe workplaces. Employee misclassification generates substantial losses to the federal government and state governments in the form of lower tax revenues, as well as to state unemployment insurance and workers' compensation funds. It hurts taxpayers and undermines the economy.

In recent years, the [employment relationship](#) between workers and the businesses receiving the benefit of their labor has [fissured](#) apart as companies have contracted out or otherwise shed activities to be performed by other businesses. This is accomplished through, for example, the use of subcontractors, temporary agencies, labor brokers, franchising, licensing, and third-party management.

Fissuring may lead to the misclassification of employees as independent contractors in a variety of ways, such as employers simply mislabeling certain employees as independent contractors to reduce payroll costs. The Department supports the use of legitimate independent contractors, who play an important role in our economy, but when employers deliberately misclassify employees in an attempt to cut costs, everyone loses.

The Wage and Hour Division is working with the IRS and many states to combat employee misclassification and to ensure that workers get the wages, benefits, and protections to which they are entitled. We have entered into partnerships with 25 states to work together on this issue in a variety of ways – through, for example, information sharing and coordinated enforcement – to ensure that we are all using our resources most strategically, effectively and efficiently to address this significant problem. In some cases, these agreements include the cooperation of the Employee Benefits Security Administration, Occupational Safety and Health Administration, Office of Federal Contract Compliance Programs, and the Office of the Solicitor.

This collaboration is making a difference – in Fiscal 2014, WHD investigations resulted in more than \$79 million in back wages for more than 109,000 workers in industries such as the janitorial, temporary help, food service, day care, hospitality and garment industries. Through this initiative, WHD will continue to strive to assure that workers in these industries receive a fair day's pay for a fair day's work.

For more information: <http://www.dol.gov/whd/workers/misclassification/>