



# What Rhode Island Businesses Should Know About Worker Misclassification



The **Joint Task Force on the Underground Economy and Employee Misclassification** was established in 2014, with the aim to a) coordinate joint efforts to combat fraudulent employment activities, b) foster voluntary compliance with the law by educating workers and employers, c) protect the health, safety, and benefit rights of workers; and 4) work to level the playing field to increase fair competition among businesses.

## What is Worker Misclassification?

**Worker Misclassification** occurs when an employer treats a worker who is an employee under the Fair Labor Standards Act (FLSA) as an independent contractor. The misclassification of workers as independent contractors rather than employees is a serious problem because misclassified employees may not receive the minimum wage and overtime pay to which they are entitled under the FLSA or other benefits and protections to which they are entitled under the law.

## What is the difference between an employee and an independent contractor?

- An **employee** is someone who performs a service for a company in exchange for pay and is subject to the company's direction and control over their work. Employees usually receive benefits like health insurance, retirement plans, and paid leave from a company or employer.
- An **independent contractor**, on the other hand, operates as a self-employed individual, providing services to a company under terms defined by a contract. Unlike employees, independent contractors manage their own business operations, work for multiple clients, and are responsible for their own taxes and benefits.

## What are the consequences of employee misclassification?

- Civil penalties may be brought forth by the Department if it is established that an employer misclassified one or more employee(s) as independent contractors.
- Criminal charges may be brought forth by the Attorney General's Office if it is established that an employer misclassified one or more employee(s) as independent contractors.



### RI Employer Requirements

- Rhode Island employers must generally withhold state and federal income taxes, Social Security and Medicare taxes
- Employers must pay taxes on wages paid to employees
- Employers must pay employee Workers' Comp premiums
- Businesses do not withhold or pay taxes to independent contractors

You can find more information about enforcement laws for employee misclassification in the [Guidebook to RI Wage and Workplace Laws](#)