



Robert W. Wood

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Winning Independent Contractor Battles

As I reported [here](#), this is a hot and scary topic. It's not easy to fight taxing or employment organizations over whether workers are independent contractors or employees. It impacts [federal income](#) and employment taxes and state taxes too. Then there's the [U.S. Department of Labor](#) and state counterpart agencies.

Many states have Departments of Industrial Relations, OSHA agencies, and more. There are pension and fringe benefit issues, disputes with private parties and insurance companies. Workers' compensation is for employees not independent contractors.

Civil liability for accidents or injuries a worker causes is also impacted. You generally aren't liable for injuries your independent contractor causes while working for you. In contrast, you have full liability for acts of your employees. See [Independent Contractor or Employee?](#)

These disputes are time consuming, expensive, intensely factual, and arise in many settings. An example is [Robinson v. Commissioner](#). There, the U.S. Tax Court ruled a full-time college professor was an independent contractor.

[Donald Robinson](#) taught full-time at Rowan University, and part-time at Temple University's [Criminal Justice Training Program](#). The question



was whether he was an employee or independent contractor of Temple. His courses were not for college credit and were not offered to regular students so were not part of Temple's regular business. While Temple treated Robinson as an employee and withheld, he insisted he wasn't an employee.

Robinson received no employee benefits from Temple and it exercised little control over his work. Temple did not provide him with office space, and Robinson could market his services to others. Temple could not even fire him if it was unhappy with his work.

Robinson's duties fluctuated significantly over the years, and recently had been minimal. Robinson's hourly wage was consistent with an employer-employee relationship, but his set fee for writing curricula supported an independent contractor relationship. Although Temple believed he was an employee and issued a [Form W-2](#), the Tax Court agreed with Robinson that he wasn't.

Despite this result, it's tough to win these cases, and you shouldn't count on success.

For more, see:

[IRS Narrows Independent Contractor Relief](#)

[Some Control Won't Convert Independent Contractors To Employees](#)

[1099 Or W-2?](#)

[All Lawyers Need To Know About Independent Contractor Basics](#)

[Who Cares About Contractor vs. Employee Status?](#)

[IRS Gives 10 Tips On Employees vs. Independent Contractors](#)

[Drafting Independent Contractor Agreements](#)

[White House On Contractor vs. Employee: There Will Be Blood](#)

*Robert W. Wood practices law with [Wood LLP](#), in San Francisco. The author of more than 30 books, including *Taxation of Damage Awards & Settlement Payments* (4th Ed. 2009, [Tax Institute](#)), he can be reached at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*