



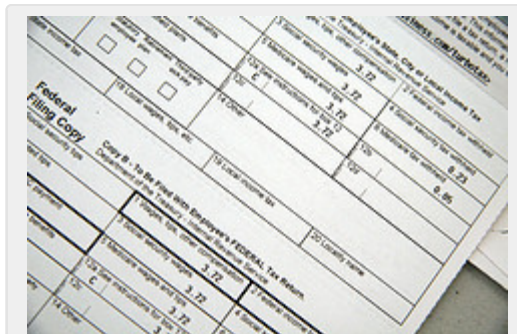
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1099 Or W-2? Giving Or Receiving, Be Careful

Both key tax forms arrive in January or February, so watch your snail mail. If you're an employee, taxes must be withheld. You'll receive an [IRS Form W-2](#) from your employer in January the following year. If you're an independent contractor, you are liable for your own taxes. Assuming your total pay was \$600 or more, you'll receive an [IRS Form 1099](#).



(Photo credit: chadmillier)

But is it that simple? What if you're the employer rather than the recipient? This key decision is made thousands of times daily all over America, often, it seems, without much thought. Some employers ask "1099 or W-2?" as if they were asking how you take your coffee.

If you're the worker, you may be tempted to say "1099," figuring you'll get a bigger check that way. Of course, you'll actually owe higher taxes. As an independent contractor, you'll owe not only income tax, but self-employment tax too. In contrast, if you're an employee, you pay only one half the Social Security tax, plus one half the Medicare rate. Your employer pays the other half.

Apart from tax law, employee status carries protection under nondiscrimination laws, pension and benefits laws. Wage and hour

protections apply to employees but not to independent contractors. For all of these reasons, employers have considerable incentives to try to pay independent contractors rather than employees. This can often be done in ways that are perfectly proper.

However, some employers push the envelope to treat workers as “independent contractors” who are clearly employees if anyone would bother to look. That’s where the IRS and many other agencies come in. They can ferret out the truth according to various legal standards that often boil down to how much control the company has over the worker. See [Some Control Won’t Convert Independent Contractors To Employees](#).

The area is heating up in a big way, with many believing that inappropriate worker status determinations are a major tax loophole. If you’re an employer, be careful. See [Employee v. Independent Contractor—Seven Tips For Business Owners](#).

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