

# TIPS TO AVOID EMPLOYEE MISCLASSIFICATION

## BASIC INFORMATION AN EMPLOYER SHOULD HAVE

- ☐ Company/Employer Name.
- ☐ Name of subcontractors.
- ☐ How many employees?
- ☐ Management and/or Supervisory Staff information.
- ☐ Hourly or Salary employees or both?
- ☐ Employee Records - Must maintain employee records for 2-Years.
- ☐ Do you hire or utilize Independent Contractors?
- ☐ For what type of services do you utilize Independent Contractors?
- ☐ Have Records and Contracts for Independent Contractors.

## WHAT IS MISCLASSIFICATION?

**Nevada Revised Statutes (NRS) 607.216 “Employee misclassification” defined.** As used in [NRS 607.216](#) to [607.2195](#), inclusive, unless the context otherwise requires, “employee misclassification” means the practice by an employer of improperly classifying employees as independent contractors to avoid any legal obligation under state labor, employment and tax laws, including, without limitation, the laws governing minimum wage, overtime, unemployment insurance, workers’ compensation insurance, temporary disability insurance, wage payment and payroll taxes.

## SOME THINGS TO AVOID

- Do not classify individual workers or former employees as Independent Contractors.
- Do not engage Independent Contractors to perform the same work as employees.
- Do not provide tools or equipment.
- Do not conduct performance reviews on Independent Contractors.
- Do not engage Independent Contractors for full-time work over a long period of time.
- Do not prohibit Independent Contractors from working for other companies.
- Do not provide training, instruction, or otherwise attempt to control how the work is performed.
- Do not reimburse for business expenses.

## POTENTIAL PENALTIES FOR MISCLASSIFICATION

- Administrative Penalties of up to \$5,000 per violation after notice and an opportunity for a hearing.
- Referral to other Agencies and the Attorney General’s Office.



**Office of the  
Nevada Labor Commissioner**

Nevada Department of Business and Industry  
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