

Are Your Current Staffing Provider's Hiring Practices Putting Your Company at Risk?

While lower labor costs from some staffing providers may seem appealing, they often come at a hidden price. Companies that misclassify employees as 1099 contractors or fail to provide proper workers' compensation and benefits can expose your hotel to serious liability. This includes fines for labor violations, responsibility for unpaid back taxes, penalties for undocumented workers, and costly workers' comp claims. Choosing a compliant staffing partner protects your operation from these risks and ensures peace of mind.

XCLUSIVE
SERVICES



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W2 Employee *vs.* 1099 - Independent Contractor

Important questions to determine if a worker can be coded as an independent contractor on your property.



- Do you determine how the person must perform their job duties?
- Does the person have to follow specific instructions on how work is to be done?
- Is the person paid an hourly wage at set intervals (hourly, weekly, salary, etc.)
- Does the person receive training?
- Does the property provide equipment/tools for the person to perform their duties?
- Is there a work schedule that the person must adhere to?

The US Department of Labor - Independent Contractor Rules

Make the answers are quite clear....

EMPLOYEE

or

INDEPENDENT CONTRACTOR

Working for someone else's company

Running their own business

Paid hourly, salary, or by piece rate

Paid upon completion of project

Uses employer's materials, tools and equipment

Provides own materials, tools and equipment

Typically works for one employer

Works with multiple customers

Continued relationship with the property

Temporary relationship until project is completed

Employer decides when and how the work
will be performed

They decide when and how the work
will be performed

Employer assigns the work to be performed

They decide what work they will do

The True Cost of Misclassifying Employees as 1099

Misclassification leaves workers subject to exploitation and denies employees access to critical benefits and protections they are entitled to such as:

- Employer paid portion of Medicare and Social Security taxes
- Unemployment insurance
- Overtime pay and minimum wage protection
- Workers' compensation benefits
- Healthcare coverage
- Coverage under Family and Medical Leave Act
- State and Federal withholdings



Hourly Costs to the 1099 Worker



By improperly coding an employee as an independent contractor (1099) the employer may be trying to avoid their legal obligation of paying a portion of the worker's Social Security and Medicare taxes. This leaves the worker to pay the taxes on their own.

The self-employment tax rate is 15.3%

(12.4% for social security and 2.9% for Medicare)
Example for 1099 worker:

- A worker is being paid a rate of \$13.50
- After the self-employment tax of -\$ 2.07
- The employee is making rate of **\$11.43**
(prior to other payroll taxes)

Penalties For Misclassification of Employees

Even though the worker is not your employee, because they are performing work for your property, you and your company may be exposed to liability.

The Cost of Getting It Wrong

Misclassification can trigger investigations from the U.S. Department of Labor (DOL) and state agencies, leading to:

- Back pay for unpaid overtime and minimum wage violations
- Liquidated damages equal to unpaid wages
- Civil penalties per violation
- Employee lawsuits and class-action litigation
- Loss of trust among employees, and damage to your brand

Some of the penalties may include:

Paying an additional 20% of all wages paid by the employer to the misclassified employee.

FICA contributions now wholly paid by the employer, 100% for both employer and employee share of Medicare and Social Security

Possible fine of \$1,000 for every misclassified employee

Imprisonment of up to 1 year



Workers Compensation and Risk Management



Ivannia
Xclusive Manager
Since 2022

- Xclusive understands the importance of safety for your staff, employees and guests.
- We invest in comprehensive training and continuously innovate solutions that allow us to track and manage incidents and prioritize clear communication with the businesses we serve.
- Xclusive provides some of the highest coverage in the industry (\$2M in Commercial General Liability and \$1M in Workers Comp coverage)
- We leads the industry with an internal Worker's Comp management structure which includes
 - Quality & Compliance Department
 - Innovative safety training as a standard service offering.

Xclusive Only Hires Hourly W2 Employees

Xclusive W2 Employees

Xclusive performs complete background checks, and hires Team Members as hourly W2 employees. Not only is this the *legal* way to code the staff for the positions they support, but it is the right thing to do for the Team Member. They also have access to insurance/medical benefits.

National Payroll and Taxes

By processing our payroll through the national payroll-processing team, Xclusive ensures that all employee taxes are paid. We utilize an I-9 program to ensure all Team Members meet the highest standards of hotel staffing compliance. This protects our Team Members and our customers.

Workers' Compensation

Xclusive Team Members are insured for general liability, theft and workers' compensation. We have industry leading safety and workers' compensation claims management programs to aid in the prevention of injuries and to ensure that our Team Members receive appropriate medical care in the event of a job-related injury.

Our Keys to Compliance



Xclusive's Compliance & Internal Audit program ensure that our talent is carefully selected, compliant and meet our stringent hiring criteria before being placed on assignment

- Our industry staffing software tracks and manages every step in the staffing process, from on-boarding through payroll processing
- Xclusive meets all provisions of the PPACA
- These steps ensure we meet the highest standards in Hotel Staffing Compliance



**Dedicated Risk
Management
Team**



**National Safety
Training Team**



**IRS, Immigration,
Dept. of Labor and
OSHA Audit
Teams**



**Dedicated
Compliance
Team**

Xclusive Screening Process

Xclusive hires the right people the right way to protect your reputation, as well as our own. All Xclusive employees are interviewed and screened by Xclusive prior to being placed on any assignment.

Xclusive' standard screening process includes:

- Completion of Xclusive' application which provides for employment references, employment history and disclosure of criminal convictions
- Reference checks from at least two previous employers
- 9-panel drug screening
- Multi-state criminal background check; include a search of sex-offender registries as well as felony and misdemeanor convictions for the previous seven years
- Verification of work authorization in accordance with the Law and implementing regulations

Sources

Independent Contractor (Self-Employed) or Employee? | Internal Revenue Service (irs.gov).
Misclassification of Employees as Independent Contractors | U.S. Department of Labor (dol.gov).
The True Cost of Misclassification | U.S. Department of Labor Blog (dol.gov).
Self-Employment Tax (Social Security and Medicare Taxes) | Internal Revenue Service (irs.gov).
Independent Contractor Defined | Internal Revenue Service (irs.gov).

Contact Information

Xclusive employees are part of our team and are hired as *W2 employees* and *not 1099* contractors. Not only is this the legal way to hire our Team Members... it's the right thing to do.



For more information please contact:

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