

Employers that classify an employee as an independent contractor and lack a reasonable basis for doing so may be held liable for employment taxes for that worker (the relief provisions, discussed below, will not apply). See Internal Revenue Code [section 3509](#) for more information.

Relief Provisions

If you have a reasonable basis for not treating a worker as an employee, you may be relieved from having to pay employment taxes for that worker.

- To get this relief, you must file all required federal information returns on a basis consistent with your treatment of the worker.
- You (or your predecessor) must not have treated any worker holding a substantially similar position as an employee for any periods beginning after 1977. See [Publication 1976](#), Section 530 Employment Tax Relief Requirements, for more information.

Misclassified Workers Can File Social Security Tax Form

Workers who believe they have been improperly classified as independent contractors by an employer can use Form 8919, Uncollected Social Security and Medicare Tax on Wages, to figure and report the employee's share of uncollected Social Security and Medicare taxes due on their compensation. See the full article, [Misclassified Workers to File New Social Security Tax Form](#), for more information.

Voluntary Classification Settlement Program

The [Voluntary Classification Settlement Program](#) (VCSP) is an optional program that provides an opportunity for employers to reclassify their workers as employees for employment tax purposes for future tax periods with partial relief from federal employment taxes. To participate in this voluntary program, the employer must meet certain eligibility requirements and apply to participate in the VCSP by filing Form 8952, Application for Voluntary Classification Settlement Program, and enter into a closing agreement with the IRS.

References/Related Topics

- Proper Worker Classification ([Audio](#))
- [Virtual Small Business Tax Workshop - Lesson 6](#)
- The Virtual Small Business Tax Workshop is comprised of nine interactive lessons designed to help new small business owners learn their tax rights and responsibilities. See Lesson 6 for information on how to identify an employee versus an independent contractor.
- [Employee/Independent Contractor](#) (PDF)
- [Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding](#) (PDF)
- [Publication 15-A, The Employer's Supplemental Tax Guide](#) (PDF), has detailed guidance including information for specific industries.
- [Publication 15-B, The Employer's Tax Guide to Fringe Benefits](#), supplements Circular E (Pub. 15), Employer's Tax Guide, and [Publication 15-A, Employer's Supplemental Tax Guide](#). It contains specialized and detailed information on the employment tax treatment of fringe benefits.
- [Businesses with Employees](#)
- [Hiring Employees](#)
- [Know Who You're Hiring - Independent Contractor \(Self-employed\) vs. Employee](#)