

THEMOMPROJECT

# Guidelines for Hiring

in the Gig Economy



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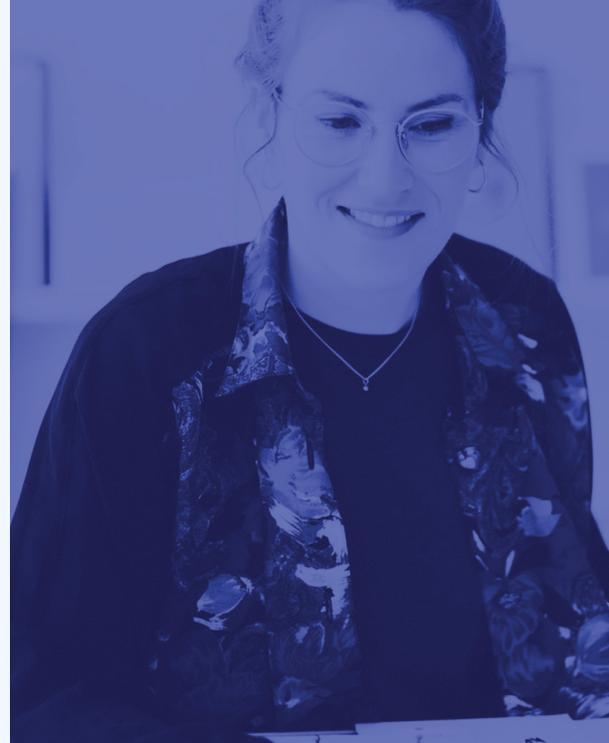
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## Overview

So, you're posting a role on The Mom Project marketplace and you're about to engage with some incredible, talented individuals who are looking for employers, like you, who get it. But what exactly is a "Gig Economy" and what does it mean for your company?

The Gig Economy gets its name from the rise of project-based work ("gigs") in the marketplace that are temporary and allow for flexibility. Hiring for gigs is a great way to tap into independent talent versus a full-time employee. It's estimated that around one-third of the working population is already working in a gig capacity!

However, taking advantage of the rising gig economy means there are a few legalities to consider, one being that contingent talent is taxed differently by the government than full-time employees. We are here to help, both with the following resource guide and as a partner. Let's get to business!



## FAQ

### **Q: So what exactly is the Gig Economy?**

**A:** The Gig Economy gets its name from each piece of work being akin to an individual "gig." Often these roles are temporary and have some flexibility, allowing the talent to work as an independent contractor rather than as a full-time employee. America is well on its way to establishing a Gig Economy, and estimates show as much as one-third of the working population is already working in a gig capacity. Experts expect this working number to rise.

### **Q: What's the difference between an Independent Contractor (IC) and an Employee (W2)?**

**A:** An Independent Contractor (1099) is self-employed. You enter into a contract with an Independent Contractor to do a specific role or complete a specific task. Independent Contractors have greater control in setting their own hours, and they also use their own equipment. They may even work for more than one business. Since they are self-employed, you do not withhold taxes from their paychecks; they pay their own taxes and provide their own benefits. They cannot accrue overtime pay and track their time on an hourly basis.

An Employee (W2) is hired by your business under an employment agreement. You withhold taxes from their wages, train them, pay employment taxes for them, and may provide benefits. Because of this, you have more control over employees. You dictate what they work on and when they work.

### **Q: Why do you need to care about worker classification?**

#### **A: As an Employer:**

You may have to pay potential back taxes, penalty fees, or legal fees if you misclassify a worker. It's important to understand the proper hiring practices at both the federal and state level to ensure you make the correct classifications. Situations to pay attention to include:

- A talent believes they have been misclassified.
- They can request a review from the IRS.
- A 1099 incorrectly files for unemployment, which is a W2 work program benefit and not available to 1099s. This may trigger a classification question from the government.
- An important note! Employer tax is a revenue center for state and federal government. They are supportive of 1099 contractors and if a worker raises a question, they are likely to side with the worker, rather than a company.

[Click here for further information from SHRM.](#)

#### **As an Independent Contractor:**

If you are classified as a 1099, you are responsible for all taxes, including employer taxes. It is important to understand what you are responsible for in this instance. What are some of the other implications of being a 1099?

- You aren't eligible for work programs, like unemployment, after a project ends.
- You will not have access to the benefits offered to W2 employees of The Mom Project.

[Click here for more information on the distinction between a W2 and a 1099.](#)

## FAQ continued

### **Q: As an employer, how does this impact my project set-up with The Mom Project?**

#### **A: If you are classifying a worker as a 1099:**

- The Mom Project provides payment processing and project management services for your contractor, which includes providing them with end of year tax documents
- Think of your talent as a vendor or consultant that is providing services directly to your company, rather than as your company's employee of an employee of The Mom Project
- Your company sets The Mom Project up as a vendor and pays on agreed schedule

#### **If you are classifying a worker as a W2:**

- The worker is an assigned employee of The Mom Project; The Mom Project provides payrolling and project management services
- Think of your talent as a temporary employee of The Mom Project
- The Mom Project's payrolling arm will make weekly or bi-weekly payroll payments, including all employer and employee federal, state, and county withholdings
- Your talent will have access to a suite of benefits including health, dental, retirement, and insurance
- There is an associated 20% pass-through fee for assigned employee (W2) services

### **Q: How and why is California different when it comes to employee classification?**

**A:** California Assembly Bill 5 (AB5) went into effect January 1, 2020. It applies to workers hired in California, regardless of where the company is registered as a business or maintains its principal place of business. California's AB5 has gone beyond the typical IRS classification and presumes that nearly all workers are Employees (W2) in California.

AB5 requires employers to apply a 3-point ABC test to determine whether an employee should be classified as an Independent Contractor (1099). We are aware that there are exemptions to AB5, but if you are hiring talent from California, we recommend you connect with your Customer Success Manager to discuss further!

# Now Let's Get Classifying!

Follow the steps below to gain further clarity around your new hire's classification.



## Employee or Contractor?



### Exceptions To Consider:

- Classification is determined by federal and state requirements, meaning if a state (like CA, for example), has guidelines that presume more talent should be classified as a W2 rather than a 1099, those state levels supersede the federal levels for the work performed in that state.
- Is the talent responsible for their own supplies/equipment? Contractors most often are, unless there are data security reasons for a company to provide equipment.
- Is the resource able to hire/replace her/his own team? It may not be applicable, but if it is and the answer is yes, that would contribute to the case to classify as a 1099.
- Are you offering employee benefits like paid time off, 401K, or health benefits? If so, those are traditionally employee benefits rather than contractor benefits.

# Resources Quick Links

[The Mom Project Terms of Service](#)

[Intuit Quickbooks Contractor/Employee Calculator](#)

[Square, Inc. Overview of W2 vs. 1099](#)

[Forbes on the Gig Economy](#)

[IRS Contractor vs. Employee Designation](#)

Still have questions?

Email [info@themomproject.com](mailto:info@themomproject.com) for more.

