

By Willy Campbell

### **Use Independent Contractors Carefully**

Here in the Sandhills we have many small businesses, small shops and significant employment in the services industry. Many such businesses can benefit from using independent contractors, or “contract workers”, because the business does not have to withhold taxes, pay Social Security or Medicare or meet numerous other employer responsibilities.

But – you must be very careful to meet IRS definitions and regulations or major troubles will lie ahead. The strategy can really backfire if someone later claims they should have been treated, and paid, as an employee. If you incorrectly classify an employee as an independent contractor, you can be held liable for employment taxes for that worker, plus a penalty!

A general rule is that you, the payer, have the right to control or direct only the result of the work done by an independent contractor, and not the means and methods of accomplishing the result. Independent contractors work for themselves; they operate their own business. You are their client, not their employer. You don’t dictate their hours or control how they perform their work. In the eyes of most government agencies, a worker is an employee unless you can prove otherwise.

Contractors control when and where they work. Avoid setting a pattern of daily or weekly work hours dictated by your business. Also, independent contractors do not usually have a permanent or continuing relationship with the business and have time to pursue other clients. Plan to compensate contractors on a per-job basis, not weekly or monthly. Note that you must file IRS Form 1099-MISC to report payments of \$600 or more to persons not treated as employees.

And since contractors are paid to complete a set task, they may bring in others to help, at their discretion and on their payroll. They should use their own tools and technology and be responsible for incremental expenses.

Contractors cannot be fired as long as they produce results that meet their contract specifications. Be sure not to include them under any insurance or benefits coverage you have for employees.

Always require an invoice before making payment!

There are several IRS publications, which you should review before agreeing to independent contractor relationship with anyone: “Publication 1779 Independent

Contractor or Employee”, “Topic 762 - Independent Contractor vs. Employee”. These publications can be viewed and downloaded at [www.irs.gov/businesses/small](http://www.irs.gov/businesses/small).

If you would like to discuss this or other business issues, contact the Sandhills Chapter of SCORE “Counselors to America’s Small Business”. SCORE is a nationwide nonprofit association of expert business counselors who provide free and confidential business counseling to small business owners. Your local Sandhills Chapter is very active in counseling, mentoring and presenting free business seminars. Volunteers to expand these efforts are urgently required. You can reach the Chapter via the web at [www.sandhillsscore.org](http://www.sandhillsscore.org) or at 910-692-3926.

Remember – send your business questions to me at [www.info@sandhillsscore.org](mailto:www.info@sandhillsscore.org) and don’t forget to provide a way to contact you. I may not be able to answer all of them in this column but every one will receive a personal answer from one of our Sandhills SCORE counselors!