

# **Contractor vs. Employee: Understanding the Distinctions and Required Tax Filings**

*Empowering accurate classification for  
compliance and success*

PRESENTED BY

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# Learning Objectives

By the end of this session, participants will be able to:

- **Differentiate** between contractor and employee classifications under IRS guidelines.
- **Identify** key tax filing requirements for each classification.
- **Apply** compliance best practices to avoid misclassification risks.

# Jennifer Watkins, CPA

## Principal

- Expertise – Education, Single Audit
- Over 17 years of experience in auditing and consulting with school districts
- Member of Michigan Dept. of Education's (MDE) 1022 Accounting Manual and Audit Referent Group (A-133)



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## Chief Financial Officer

- Former Associate Superintendent of Finance, working in schools for 14 years
- Prior to schools, CPA for 12 years specializing in small business tax preparation and consulting services
- 2021 MSBO Leadership Institute, 2023-24 MASA Horizons -Admin Certification with Central Office Endorsement



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# AGENDA

- Classification Criteria
- Tax Filing Requirements
- Common Misclassifications
- Case Studies
- Q&A



# Top Questions We are Asked

## Common Scenario:

“We pay a coach a stipend — are they a contractor or employee?”

## Key Considerations:

- Is the coach under direct supervision or control?
- Does the district provide equipment or set schedules?
- Is the role ongoing or project-based?

## • Answer:

If the district controls how and when the work is done, the coach is likely an **employee**.

If the coach operates independently and provides services to multiple organizations, they may be a **contractor**.

# Top Questions We are Asked

## Coaches (con't)

- An integral part of the school's trade or business; and
- Must perform their services personally
- Schools are liable for negligent or tortious conduct of their faculty members
- Payments to school coaches are wages subject to applicable employment taxes
- School districts are responsible for reporting all payments, fees, or stipends for the coach's services on Form W-2
- For more information on common law employees, see [Independent Contractor \(Self-Employed\) or Employee?](#)

# 1099 vs W-2

## Independent Contractor (1099) vs Employee (W-2) :

In determining whether the person providing service is an employee or an independent contractor, all information that provides evidence of the **degree of control and independence** must be considered.



# Contractor vs. Employee Comparison Table

<b>Criteria</b>	<b>Employee</b>	<b>Contractor</b>
<b>Control</b>	Employer directs tasks and schedule	Independent control over methods and timing
<b>Tools/Equipment</b>	Provided by employer	Provides own tools and materials
<b>Payment</b>	Regular wages or salary	Paid per project or invoice
<b>Benefits</b>	Eligible for benefits	No benefits provided
<b>Tax Forms</b>	W-2	1099-NEC



# 1099 vs W-2

## **Behavioral Control**

- Does the district have a right to direct or control how the work is done through instructions?
- When, where, and how work is done?
- Does the district provide training?

## **Financial Control**

- Does the district have a right to direct or control the financial and business aspects of the worker's job?
- The extent of whether the worker has unreimbursed business expenses
- The extent of the worker's investment in facilities/equipment used in performing services
- The extent of which the worker makes his/her services available in the marketplace
- How the worker is paid?
- The extent to which the worker can realize a profit or loss

# 1099 vs W-2

## **Type of Relationship**

- How do the parties perceive their relationship?
- Written contract describing the parties' relationship?
- Fringe benefits provided?
- The extent to which the worker is available to perform services for other districts?
- The permanency of the relationship
- Are the worker's services a key aspect of regular business of the district?

# 1099 vs W-2

**There is not always a clear, easy answer to the question - 1099 or W2?**

## **What can you do?**

- Can file Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding
- Refer to IRS Publication 1779, Independent Contractor or Employer?
- <http://www.irs.gov/pub/irs-pdf/p1779.pdf>

# 1099 vs W-2

**Employee wages - reported on W-2**

**Independent contractors - reported on 1099-NEC**

- W-9 Request for Taxpayer Identification Number should be kept on file
- Report to IRS on 1099-NEC if payments during calendar year are greater than or equal to \$600

**Watch for employees doing independent contractor work!**

# W-2 Employee

## What do you need for a new employee?

- **US Citizenship and Immigration Services - I-9 Employment Eligibility Verification Form**
  - Must retain for a minimum of 3 years after date of hire or one year after termination of employment, whichever is later
- **Federal Form W-4 & MI W-4**
  - Employee's Withholding Allowance Certificate

# W-2 Employee

## Criminal Background Checks

- Fingerprinting for all new employees on Michigan State Police & FBI databases
- Prohibits persons convicted of certain listed offenses from working in the school district.
- Employees should NOT be on the job or be paid until fingerprinting has been completed.

# W-2 Employee

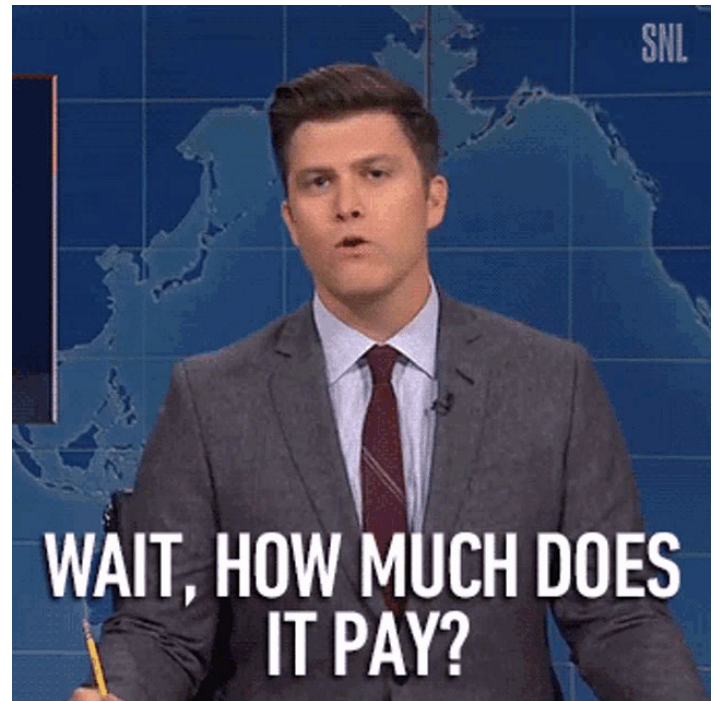
## Personnel Transaction Form

- Documents all pertinent information for employee
- Pay rate
- Expected work hours
- Start/End dates
- Leave accrual computations
- General ledger account numbers
- Documents fingerprinting date

# Wages, Taxes, and Withholdings

## Gross Wages

- Hourly wages including overtime
- Salaries
- Sick pay
- Longevity pay
- Severance pay
- Fringe benefits
- Retirement (ORS)
- 403b
- Expense stipends



# Final Items to Consider

- **#1 issue for an Audit during payroll testing**
  - Findings
  - Potential for Fraud
- **Cost vs. Benefit**
- **Materiality**
- **Common Sense**

# Additional Questions We are Asked

## School Board Members

Consult the statutes or ordinances establishing a position to determine whether the position is a [public office](#), but in most cases school board members are considered public officials who hold a public office because:

- School boards are created by state or local statute;
- Members' tenure, duration, pay and duties are fixed by law;
- The member is subject to a degree of control in terms of when and how they fulfill their obligations; and
- The member is subject to a chain of command that includes provisions for the member's removal.
- School board members are considered employees and their compensation is subject to employment taxes and reporting on Form W-2. It does not matter what an official's compensation is called or how often it is paid. For more information on the definitions of public office and public officials see [Tax Withholding for Government Workers](#).

# Bonus Topic: We Often are Asked

## Gift certificates/gift cards

- Cash or cash equivalent items provided by the employer **are never excludable from income**. An exception applies for occasional meal money or transportation fare to allow an employee to work beyond normal hours. Gift certificates that are redeemable for general merchandise or have a cash equivalent value are not de minimis benefits and are taxable.
- A certificate that allows an employee to receive a specific item of personal property that is minimal in value, provided infrequently, and is administratively impractical to account for, may be excludable as a de minimis benefit, depending on facts and circumstances.

# Questions?

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