

## EMPLOYEES VS INDEPENDENT CONTRACTORS

In 2006 the Office of Management and Budget received information from the American Payroll Association regarding 1099 and wage reporting. The Internal Revenue Service will begin auditing federal and state governments more closely on the practice of hiring employees as independent contractors for work outside of regular duties. IRS intends to audit cases where a W-2 and a 1099-MISC have been reported on the same taxpayer identification numbers (i.e., social security numbers) and from the same employer ID (State of North Dakota).

Workers designated as both an independent contractor and an employee of the State of North Dakota create a dual worker status, which could result in the Internal Revenue Service questioning the State's tax reporting compliance. Should the IRS determine that the worker qualifies as an employee and not an independent contractor, the agency could be liable for back payroll taxes, penalties, and/or interest. The worker may also be at risk for additional taxes, depending upon the outcome.

The Office of Management and Budget does not determine the independent contractor status of a state employee. This website is established to help agencies make this determination themselves by sharing information that OMB and the Vendor Registry has found on this subject. **REFERENCE LINKS** ND Department of Labor:

### REFERENCE LINKS

ND Department of Labor: <http://www.nd.gov/labor/contractor/>

ND Administrative Code: See section 27-02-14-01

ND Century Code: See N.D.C.C. § 34-05-01.4

IRS Links:

<http://www.irs.gov/pub/irs-pdf/p1779.pdf>

<http://www.irs.gov/pub/irs-pdf/p963.pdf>

<http://www.irs.gov/govt/fslg/article/0,,id=110344,00.html>

<http://www.irs.gov/businesses/small/article/0,,id=99921,00.html>

Federal, State, and Local Government Newsletter: [http://www.irs.gov/pub/irs-tege/win03\\_fslg.pdf](http://www.irs.gov/pub/irs-tege/win03_fslg.pdf)

Employer's Supplemental Tax Guide: <http://www.irs.gov/pub/irs-pdf/p15a.pdf>

Form SS-8: <http://www.irs.gov/pub/irs-pdf/fss8.pdf>

ND Workforce Safety and Insurance:

<http://www.workforcesafety.com/library/Documents/forms/phs/sfn53068.pdf>

<http://www.workforcesafety.com/employers/independentcontractor.asp>

OMB Fiscal Policies: <http://www.nd.gov/fiscal/policies/>

See Policy 101 – Employer-Employee Relationship and Policy 208 - Honoraria

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