

TEMPLATE

Employee Classification Worksheet

Work through exempt vs non-exempt and employee vs contractor, the two most expensive classification mistakes

Misclassification is the most common and most costly small-business HR error. Use this to think it through, then confirm with HR or counsel. State tests (like California's ABC test) can be stricter than federal.

Worker details

Worker name: _____

Role / duties: _____

Part 1: Employee or independent contractor?

A worker is more likely an employee (not a contractor) the more these are true. The federal economic-reality test and stricter state tests both look at control and independence.

- You control how, when, and where the work is done
- The work is part of your core business, not a one-off project
- The worker depends on you economically and works mostly for you
- You provide tools, equipment, and training
- The relationship is ongoing, not project-based
- The worker cannot realistically profit or loss from their own management

If several of these are checked, the worker is likely an EMPLOYEE, not a contractor, regardless of what the agreement says. In ABC-test states (California and others), the default is employee unless you can prove all three ABC prongs. Misclassifying an employee as a contractor creates back-tax, back-pay, and penalty exposure.

Part 2: Exempt or non-exempt? (for employees)

Non-exempt employees must get overtime. To be exempt, a role must meet BOTH a salary test and a duties test. Job title alone never determines exemption.

Salary test:

- Paid on a salary basis (not hourly)
- Salary meets or exceeds the current federal threshold (and any higher state threshold)

Duties test (must genuinely perform exempt duties, e.g.):

- Executive: manages the business or a department, directs 2+ employees, has hiring input
- Administrative: office work directly related to operations, exercises independent judgment on significant matters
- Professional: work requiring advanced knowledge or creative/artistic skill

If the role fails EITHER the salary test or the duties test, it is NON-EXEMPT and owed overtime. The most common mistake is assuming a salaried title makes someone exempt. It does not; the actual duties must qualify.

Your determination

Classification: _____

Basis / notes: _____

Reviewed by / date: _____