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IRS Unveils Big Relief Program For Worker Status



When the IRS says “voluntary” it can sound scary. The IRS is unlikely to use this word unless the potential liability is serious. The IRS would much rather have you come forward. If you do, you’re likely to get a much better deal than if you wait for them to find you. See [IRS, DOL And States Mount Independent Contractor Attack](#).

Recent examples include the [2009 Offshore Voluntary Disclosure Program](#)

and the just ended [2011 OVDI Offshore Voluntary Disclosure Initiative](#) for foreign accounts and assets. Through these “voluntary” programs, the IRS has collected billions and is getting many taxpayers back into the IRS system in a major way. The latest example is a newly minted voluntary relief program for worker status.

Many companies classify as “independent contractors” workers who the IRS would view as employees. See [Winning Independent Contractor Battles](#). The IRS uses [20 factors](#) to say who qualifies. The overall issue is whether the employer the **right to control** the worker not only as to end result of their work but also as to their **method and means**. [Is IRS Making Independent Contractor Treatment Even Harder?](#)

The tax dollars for failure to withhold income and Social Security taxes can run in the millions. Holding your breath and hoping you're not audited can be stressful. And the mix of factors is so fact-intensive that outcomes are hard to predict. Even if you win, disputes are expensive. See [Even Consulates Have Independent Contractor Problems!](#)

Now there's a potential way out if you're willing to treat workers as employees **prospectively**. [Announcement 2011-64](#) unveils the IRS's Voluntary Classification Settlement Program—VCSP—allowing you to **voluntarily reclassify independent contractors as employees** for the future. If you qualify, your tax exposure for the past is quite limited.

To be eligible, you must:

1. Have consistently treated the workers as independent contractors;
2. Have filed all required [Forms 1099](#) for the workers for the previous three years;
3. Not currently be under audit by the IRS;
4. Not currently be under audit by the Department of Labor or a state government agency concerning worker classification; and
5. If you were previously audited by the IRS or the Department of Labor concerning the classification of the workers, you will only be eligible if you complied with the results of that audit.

The IRS has discretion whether to accept you, but once you're in, you will pay just over 1% of the wages paid to the reclassified workers for the past year. Stated differently, your payment is 10% of the employment tax liability that would have been due on what you paid your workers for the most recent year, but determined under the reduced rates of tax code [Section 3509\(a\)](#). To see how this payment is computed, see [VCSP FAQ 16](#). See also Instructions to [Form 8952](#).

There are no interest charges or penalties, and the IRS won't audit you on payroll taxes related to these workers for prior years. You must prospectively switch them to employee status and agree to a special six-year statute of limitations rather than the three years that usually applies to payroll taxes.

Apply by filing [Form 8952](#) at least 60 days before you want to begin treating the workers as employees. Full details, including FAQs, are available [here](#). Also provide contact details for your representative with an IRS Power of Attorney ([Form 2848](#)). The IRS will contact you or your representative to complete the process.

For more see:

[VCSP Frequently Asked Questions](#)

[Form 8952, Application for Voluntary Classification Settlement Program and instructions](#)

[Announcement 2011-64](#)

[IRS Narrows Independent Contractor Relief](#)

[Independent Contractor \(Self-Employed\) or Employee?](#)

[IRS Narrows Independent Contractor Relief](#)

[Ten More Consequences of Reclassifying Independent Contractors as Employees](#)

[Employers Who Violate Tax Law May Go To Jail](#)

[IRS Nightmare: What Employment Taxes?](#)

[Independent Contractor or Employee? The 100-Year War](#)

[Some Control Won't Convert Independent Contractors To Employees](#)

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