

Classifying Your Workers: Part I

Employee or Independent Contractor?



With Jan Gartner

UUA Office of Church Staff Finances



UUA Office of Church Staff Finances

Our Mission

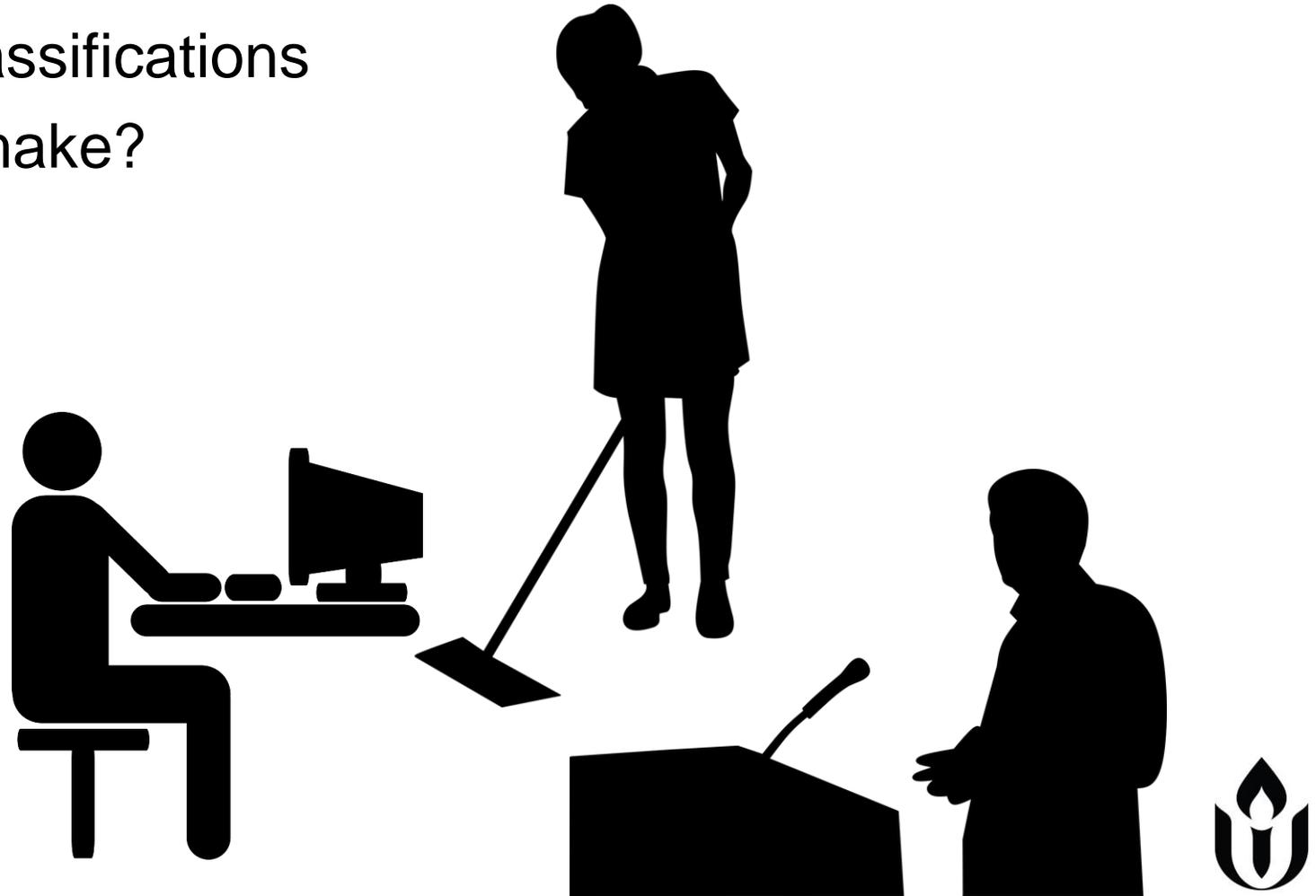
Guided by the values of our faith,
we equip congregations for excellence as employers and their staff for financial competence and well-being.



Photo: Last Minute Linda

Employee or Independent Contractor?

- People You Pay: Two Classifications
- What difference does it make?
- Deciding Factors
- Misclassification Risk
- Ministers
- Other Workers
- Resources



People You Pay

Businesses

Individuals

Independent
Contractors

Employees

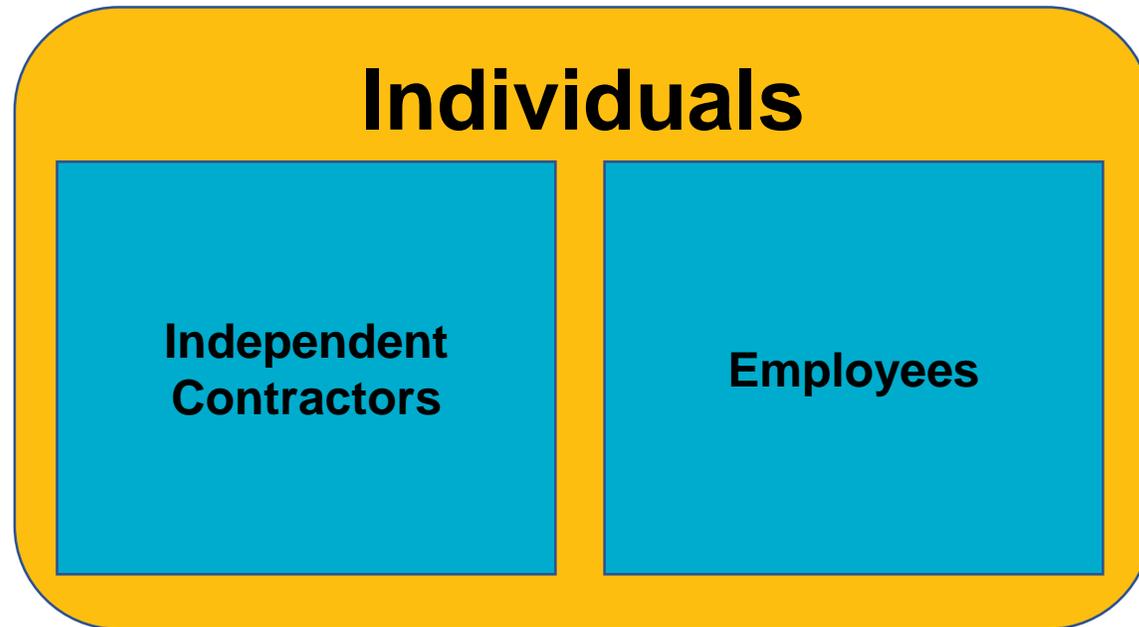
Exempt

Nonexempt

The distinction between Exempt and Nonexempt is the topic of *Classifying Your Workers, Part II*.
See resources for Exempt or Nonexempt LeaderLab article: <https://www.uua.org/leadership/library/fair-labor>.



People You Pay



Most paid workers in your congregation are *employees*.



Key Point

In nearly all congregations,
most paid workers are
employees.



Employee or Independent Contractor

What difference does it make?

1. Hiring, training, and oversight protocol
2. How Social Security/Medicare tax is paid
3. W-2 or 1099
4. Benefits eligibility: *Only employees receive employee benefits*
5. Liability issues
6. Treating staff fairly and legally



Key Point

Whether a worker is an employee
or an independent contractor
is a legal distinction.



Deciding Factors

Behavioral control (right to control how work is done)

- Type of instructions
- Degree of instructions

Financial control

- How paid
- Services available to others?

Type of relationship

- Benefits
- Permanency
- Services key to business?



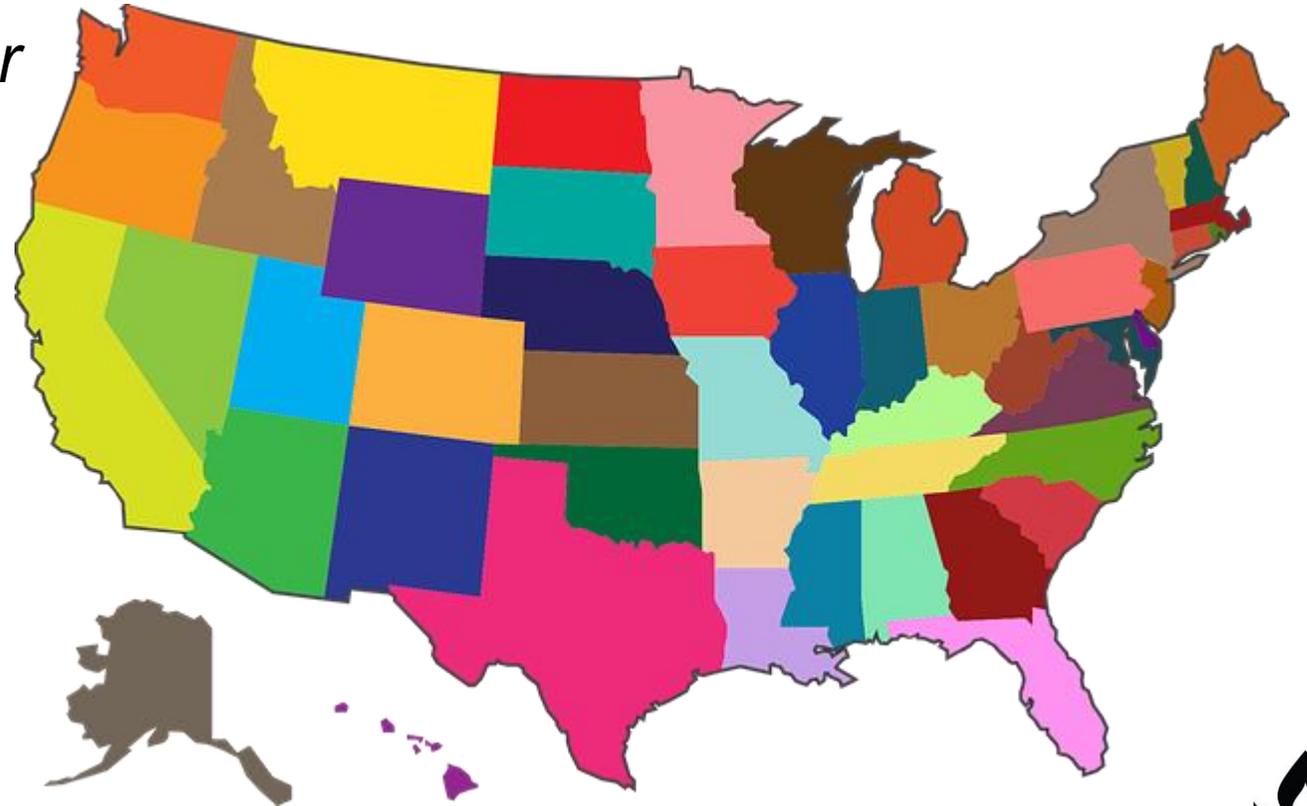
Details at
IRS.gov



State Law Takes Precedence

In some states, it is even *harder* to legally classify a worker as an independent contractor.*

*California's AB5 law, introduced in 2020, is an example.



Misclassification Risk

How is it discovered?

- Worker complaint
- IRS or Dept of Labor audit
- IC files for workers' comp/disability

What happens?

- Fines
- Criminal penalties
- Stress and extra work



Minister: Almost Always an Employee

Sources of Confusion

- Minister's contract (ministerial agreement)
- "Contract minister"
- Dual tax status (self-employed for Social Security/Medicare tax purposes)

When is a minister an independent contractor?

- Occasional or one-time services (pulpit supply, workshop leader)
- No ongoing responsibilities, limited interaction with congregants



Key Point

A minister who regularly serves a congregation,
even if very part-time,
is an employee.



Other Workers: Most are Employees

Generally an employee if:

- Ongoing responsibilities
- Relational responsibilities
- Congregation provides direction on “how”

May be an independent contractor if:

- Providing same service to multiple businesses
- Using their own tools
- Congregation concerned only with results
- Limited interaction with congregants



Key Point

Independent contractors serving congregations are often in business providing that service.



Other Workers: Most are Employees

Still usually employees...

- Very part-time workers
 - Childcare
 - Choir section leaders
- Remote workers
- Temporary workers



Resources

- <https://www.uua.org/leadership/library/employee-or-contractor> (UUA LeaderLab article)
- <https://www.irs.gov/businesses/small-businesses-self-employed/independent-contractor-self-employed-or-employee> (IRS resource)
- comp@uua.org (generic email for Jan Gartner)
- Your legal and tax professionals*

Thank you for striving for
excellence as an employer!



* The staff of the Office of Church Staff Finances are not certified legal or tax professionals.

