

# INDEPENDENT CONTRACTOR OR EMPLOYEE?




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SECTION 530 PROVIDES  
BUSINESSES WITH  
RELIEF FROM FEDERAL  
EMPLOYMENT TAX  
OBLIGATIONS IF CERTAIN  
REQUIREMENTS ARE MET.

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## SECTION 530 RELIEF REQUIREMENTS

**Y**our business has been selected for an employment tax examination to determine whether you correctly treated certain workers as independent contractors. However, you will not owe employment taxes for these workers, if you meet the **relief requirements** described below. If you do not meet these **relief requirements**, the IRS will need to determine whether the workers are independent contractors or employees and whether you owe employment taxes for those workers.

### Section 530 Relief Requirements:

To receive relief, you must meet all three of the following requirements:

#### I. Reasonable Basis

First, you had a reasonable basis for not treating the workers as employees. To establish that you had a reasonable basis for not treating the workers as employees, you can show that:

- You reasonably relied on a court case about Federal taxes or a ruling issued to you by the IRS; or
- Your business was audited by the IRS at a time when you treated similar workers as independent contractors and the IRS did not reclassify those workers as employees; or

- You treated the workers as independent contractors because you knew that was how a significant segment of your industry treated similar workers; or
- You relied on some other reasonable basis. For example, you relied on the advice of a business lawyer or accountant who knew the facts about your business.

If you did not have a reasonable basis for treating the workers as independent contractors, you do not meet the **relief requirements**.

#### II. Substantive Consistency

In addition, you (and any predecessor business) must have treated the workers, and any similar workers, as independent contractors. If you treated similar workers as employees, this relief provision is not available.

#### III. Reporting Consistency

Finally, you must have filed Form 1099-MISC for each worker, unless the worker earned less than \$600. Relief is not available for any year you did not file the required Forms 1099-MISC. If you filed the required Forms 1099-MISC for some workers, but not for others, relief is not available for the workers for whom you did not file Forms 1099-MISC.

*The IRS examiner will answer any questions you may have about your eligibility for this relief.*

