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## Vital Business Solutions Newsletter

### Employment Tax Audit - Is It Your Turn?



Have you considered hiring a job candidate as a consultant versus hiring the job candidate as an employee? What was your decision? What did you use to make your decision? Did you choose to do what was easiest?

Please be aware that making the wrong choice can cost you later. More small business owners are being audited by their state and the federal government for misclassifying employees as consultants.

Some will say that they have been hiring their team as consultants for years, and nothing has happened. You only need one "consultant" to file for unemployment and an investigation from your state government can begin. If your state government can determine that your "consultant" is really an employee, they will probably investigate all of your consultants, current and past, to see if others have been misclassified. The consequence of misclassifications is owed payroll taxes, penalties and interest.

For more information about this topic, visit these publications on the IRS Web site: [Employer's Tax Guide](#) and [Independent Contractor \(Self-Employed\) or Employee?](#)

### Summer Hiring and Fair Labor Standards

#### Are you in Compliance?

With summer around the corner, you may be hiring high school and college students for summer jobs and internships. Do you need a work permit from the student? Are you up to date with the minimum wage and overtime pay requirements? Do you know the requirements for hiring minors?

While there are federal regulations for hiring minors, most states also have child labor laws. To see if you are in compliance, visit the Department of Labor's Youth Rules! website at <http://www.youthrules.dol.gov/index.htm>



#### Records

Why should you keep records for covered, non-exempt workers? The Fair Labor Standards Act (FLSA) recordkeeping regulations 29 CFR Part 516 requires employers to keep certain records for non-exempt employees. Required records include:

- employee demographics
- date and time of hire
- pay information

A complete list of required records can be found in the Department of Labor's [Employment Law Guide](#).

## Making the Right Hire

### Background Checks



#### Background Check Policies and Procedures

Increasingly, background checks are one of the pre-hire actions performed by most employers. Obtaining a background check report helps ensure that an employer does not hire a candidate with negative criminal, financial, or commercial record.

Your company should:

- Have background check policies and procedures to share with employees and external candidates
- Before conducting a background check, require all candidates to complete and sign an authorization form, separate from the application or employee manual Ensure
- that all background checks meet federal and state laws
- Collect credit information on applicants consistent with the guidelines set forth by the Federal Credit Reporting Act (FCRA)
- Upon taking adverse action, supply the applicant or employee with a copy of the report, the "summary of your rights" document, and the contact information for the consumer reporting agency that furnished the report, as well as a statement that the consumer reporting agency did not make the adverse decision and cannot explain why it was made.
- Store all information obtained in a strictly confidential manner.

#### Post-hire Background Checks

When should you perform post hire criminal background and/or credit checks on current employees? According to a Society for Human Resource Management (SHRM) survey report, 42% of the organizations surveyed conducted post-hire background checks when there was a change in the employee's status, such as lateral transfer and from part time to full time.

On an ongoing basis, some organizations perform post hire checks on employees who perform certain jobs requiring high confidentiality, sensitivity, and fiduciary responsibility. Other reasons for post-hire background checks are when an employee is being considered for a promotion and as part of an employee investigation. Some companies conduct them on an annual basis.

[Privacy Rights Clearinghouse's Small Business Owner Background Check Guide](#)

is a great resource for learning more about the requirements of conducting employee background checks.

If you need assistance, we can help! Just give us a call to discuss your needs.

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