

**5 Things Contract,  
Part-Time, Temporary,  
& Freelance Attorneys  
MUST Know!**

**IF YOU ARE BEING PAID TO DO WORK,  
READ THIS GUIDE!**

In the current legal market, a significant number of recent graduates do not start out working as full-time employees for a law firm or legal organization. Instead, many engage in contract work (on an hourly basis or project basis for one law firm or for multiple attorneys or firms) or freelance and/or part-time work for attorneys, for a law firm, or for a temp agency. A paid worker is classified as either an “employee” or as an “independent contractor.”

If you are not an “employee” of the attorney, firm, or business that is paying you, you are an “independent contractor” and considered self-employed! Being a self-employed independent contractor triggers important tax and legal issues that recent graduates need to be aware of. How do you know whether you are an “employee” of the attorney, firm or agency that is paying you? This IRS advice can help you with your classification: <http://www.irs.gov/pub/irs-pdf/p1779.pdf>. For example, it says you probably are classified as an independent contractor if the party paying you did not issue you a Form W-2 in 2015 for your 2014 compensation, or if the party paying you did not require you to fill out a Form W-4 (the form employers use to determine the amount of income tax withholding for their employees) when you started working.

This guide provides an overview of some of the legal and tax issues of which independent contractors must be aware, as well as a list of helpful resources where you can find more information regarding the topics discussed herein.

**5 Things Contract, Part-Time, Temporary, and Freelance Attorneys Need To Know:**

**1. Malpractice Insurance – You Need It!**

- If you are not an employee of a firm or legal organization, their malpractice policy may not extend to you (and if you are doing project-based work for an employer, their malpractice policy probably does not apply to you).
- **Ask whether you are covered by the malpractice insurance of the firm or organization that is paying you; if you are not covered, you must obtain your own malpractice insurance.**<sup>1</sup>

<sup>1</sup> See, e.g., J-M Mfg. Co. v. McDermott, Will & Emery, No. BC 462832 (Super. Ct. Los Angeles County, Cal. 2011) (contract attorneys doing work for a law firm were named individually in a complaint filed against the firm).

- Fortunately, malpractice insurance generally can be obtained by recent graduates at reasonable rates. For example, Lawyers' Mutual's "Strong Start Program" offers newly licensed lawyers a malpractice policy that costs \$500 for the first year and covers \$100,000 per claim/\$300,000 in the aggregate.
  - More information about malpractice insurance (also known as professional liability insurance) is available from a variety of sources, including *The State Bar of California*<sup>2</sup> and *Lawyers' Mutual Insurance Company*.<sup>3</sup>

## 2. Avoiding Conflicts of Interest – Record Keeping is Key!

- It is your responsibility to avoid conflicts of interest, which can be an issue if you do work for more than one attorney or law firm. Keep a record of the cases that you work on, the parties involved, and counsel for all the parties. If you work on a project-by-project basis, you often will be asked to provide this information to an attorney or law firm that might engage you so they can run a conflicts check before putting you to work.
- An Excel spreadsheet or even a simple Word document is sufficient to track this information, but it is important to keep it current and accessible.

## 3. Tax Implications of Being Self-Employed – There Are Many!

- Worker classification determines how and when you must report and pay income taxes, social security and Medicare taxes.
- [IRS Pub. 1779](http://www.irs.gov/pub/irs-pdf/p1779.pdf) (<http://www.irs.gov/pub/irs-pdf/p1779.pdf>) states:
  - “When You Are an Employee . . . [y]our employer must withhold income tax and your portion of social security and Medicare taxes. Also, your employer is responsible for paying social security, Medicare, and unemployment (FUTA) taxes on your wages. Your employer must give you a Form W-2, Wage and Tax Statement, showing the amount of taxes withheld from your pay. You may deduct unreimbursed employee business expenses on Schedule A of your income tax return, but only if you itemize deductions and they total more than two percent of your adjusted gross income.” [IRS Pub. 1779](http://www.irs.gov/pub/irs-pdf/p1779.pdf) at 2.
  - “When You Are an Independent Contractor . . . [t]he business may be required to give you Form 1099-MISC, Miscellaneous Income, to report what it has paid to you. You are responsible for paying your own income tax and self-employment tax (Self-Employment Contributions Act – SECA). The business does not withhold taxes from your pay. You may need to make estimated tax payments during the year to cover your tax liabilities. You may deduct business expenses on Schedule C of your income tax return.” [IRS Pub. 1779](http://www.irs.gov/pub/irs-pdf/p1779.pdf) at 2.

<sup>2</sup> See <http://www.calbar.ca.gov/Attorneys/MemberServices/LawOfficeManagement/InsurancePrograms.aspx>. Features of the Professional Liability Insurance offered through the State Bar include Limits of Liability up to \$10,000,000 and flexible deductibles for qualified firms. There are premium discounts for part-time and newly-admitted lawyers, and risk management and online legal research are provided at no charge. Policies are underwritten by Arch Insurance Company (800-343-0132).

<sup>3</sup> See <http://www.lmic.com/>. Various packages available at different premium rates, with specialized programs and/or discounted premiums for lawyers licensed 3 years or less and lawyers acting as independent contractors.

- **Important Points to Note if You Are Working as an Independent Contractor:**
  - The payments that you receive for your work are income that you must report for tax purposes.
  - A business that pays you \$600 or more during the year is required to send you a Form 1099, but a business that pays you less than that amount is not required to send you a Form 1099. If you are paid small amounts by different attorneys, firms or organizations, you may not receive Form 1099s from these entities, but you still need to report the income.
  - Independent contractors must keep meticulous records of all the compensation they receive for work they complete; all of it is taxable and must be reported, regardless of whether you receive a Form 1099 or not!
  - **In addition, independent contractors must pay various payroll taxes, including social security, Medicare, and unemployment taxes.**
  - You may need to make **quarterly estimated tax payments, periodically remit payroll tax payments, and file annual tax returns.** See [IRS Pub. 505](http://www.irs.gov/publications/p505/) (<http://www.irs.gov/publications/p505/>).
  - In addition to federal and state taxes on income, the City of Los Angeles imposes a broadly applicable gross receipts tax on independent contractors who perform services in Los Angeles. Information about this tax is available at <http://finance.lacity.org/content/TaxInfoBooklet.htm#sup2>.
  - And finally – some GOOD NEWS: Independent contractors **can deduct various business expenses** on their tax returns if they can substantiate their expenses, for example with receipts or detailed business records, preferably records made at the time they incurred the business expenses. See [IRS Pub. 463](http://www.irs.gov/publications/p463/) (<http://www.irs.gov/publications/p463/>).

#### 4. Business Financial Records – Keep Them!

- To deduct business expenses on your tax returns, you need to be able to substantiate your expenses with receipts or detailed business records.
- **Keep organized business records of ALL of your income and expenses.**
- **Keeping your business income and expenses separate from your personal finances facilitates adequate business record-keeping.**
- Low-cost resources for keeping track of your business expenses include: Quickbooks, Freshbooks, Quicken, Expensify, InDinero, BizExpense Tracker, Mileage Log+, and Shoeboxed.
- **Keep physical business receipts (actual or scanned) for seven years.**
- Open a dedicated bank account for your independent contractor income and expenses, and keep the business account separate from your personal bank accounts.
  - Deposit payments made to you for your work into your business account.
  - Pay all business expenses from your business account.
  - You may transfer funds from your business account to your personal account, but keep records of the transfers.
  - Pay all personal expenses from your personal account only.
- See [IRS Pub. 583](http://www.irs.gov/publications/p583/) (<http://www.irs.gov/publications/p583/>).

## 5. Make the Most of the Experience and Contacts You are Gaining from Your Work!

- Even if the work you are doing as a contract, part-time, temporary, or freelance attorney may not be your dream job, make sure you take advantage of this time in your career to learn as much as you can about yourself and your desired career path.
- Use this experience to decide if you want to join a law firm or a legal organization and if so, the size, type, and environment of that firm or organization.
- If you are enjoying your work as an independent contractor and finding the schedule ideal and/or compensation to be sufficient, consider whether you want to be a solo practitioner.
- No matter what your next step is, make sure you are setting yourself up for a successful transition to the job you want, by doing the following:
  - **Take Advantage of Networking Opportunities.**
    - If you are engaging in contract or temporary project-based work, you are probably looking for a more permanent position while you do so. Use the connections you are making with practicing attorneys and network, network, network! Networking is hands-down the best way to ensure a successful job search, so be sure to take advantage of the legal contacts you make at this time and conduct as many informational interviews as you can. If you haven't already, join local bar associations, attend CLEs in the practice areas that interest you, and contact LLS alums who are practicing in your field of interest.
  - **Work Diligently and Conscientiously.**
    - If you are doing what you want to do, fantastic! If you are doing temporary project-based work but still hope to find a permanent position, approach your temporary project-based work as if it were your ideal position.
    - Taking pride in your work, whatever it is, and always being professional is important for your reputation. Remember, everything you do and every good impression you make has the potential to lead to bigger and better things.

**Here are several books with helpful information about doing contract, part-time, temporary, or freelance legal work:**

- [\*\*THE COMPLETE GUIDE TO CONTRACT LAWYERING: WHAT EVERY LAWYER AND LAW FIRM NEEDS TO KNOW ABOUT TEMPORARY LEGAL SERVICES\*\*](#) (by Deborah Arron and Deborah Guyol) (comprehensive guide regarding growing opportunities in temporary legal work field, including discussion of rate-setting, state and local ethical opinions, and malpractice liability and coverage) (book is also available in the CDC Library)
- [\*\*THE FREELANCE LAWYERING MANUAL: WHAT EVERY LAWYER NEEDS TO KNOW ABOUT THE NEW TEMPORARY ATTORNEY MARKET\*\*](#) (by Kimberly Alderman) (great overview of practical and ethical issues involved in freelance legal work, including discussions of supervision, confidentiality, malpractice, conflict screening, and billing)

- [\*\*THE INDEPENDENCE TRACK: HOW TO SUCCEED AS A FREELANCE ATTORNEY\*\*](#) (by Marina Modlin) (discusses business model and pros and cons of freelance practice, provides advice regarding logistical decisions in setting up a new business, and covers rate-setting, collections, networking, money-saving tips, and conflicts)

**In addition, here is a list of helpful tax resources for independent contractors:**

*IRS Website (available at [irs.gov](http://irs.gov)):*

- [Self-Employed Individuals Tax Center](http://www.irs.gov/Individuals/Self-Employed) (<http://www.irs.gov/Individuals/Self-Employed>) (provides comprehensive summary of everything self-employed individuals need to know about taxes, tax-related payments and returns, business structures, and deductions)
- *IRS Publications* (written for taxpayers)
  - [IRS Pub 1779](#) - Independent Contractor or Employee (provides considerations in determining whether you are an employee or independent contractor)
  - [IRS Pub 15](#) - (Circular E) Employer's Tax Guide (comprehensive overview of all tax issues employers face)
  - [IRS Pub 334](#) - Tax Guide for Small Business (contains information that independent contractors need to know about taxes; great roadmap of issues to be aware of)
  - [IRS Pub 463](#) - Travel, Entertainment, Gift, and Car Expenses (explains which business-related expenses are deductible and how to prove/substantiate those expenses)
  - [IRS Pub 505](#) - Tax Withholding and Estimated Tax (explains tax basics, including withholding, estimated taxes, credit for withholding/estimated taxes, underpayment penalties, and how to get tax help)
  - [IRS Pub 535](#) - Business Expenses (explains how to deduct business expenses, including employee pay, rent, interest, taxes, insurance, and other costs)
  - [IRS Pub 583](#) - Starting a Business and Keeping Records (provides excellent overview of everything you need to know when starting off as an independent contractor, including choosing an accounting method, business taxes, deduction of business expenses, and recordkeeping)
  - [IRS Pub 587](#) - Business Use of Your Home (explains what you need to know if you are considering a deduction based on using part of your home as a business location)
  - [IRS Pub 946](#) - How to Depreciate Property (explains property depreciation within context of business use of home)
  - [IRS Pub 966](#) - Electronic Choices to Pay all your Federal Taxes (guide to filing your taxes online)

*City of Los Angeles Finance Resources:* [City of Los Angeles Office of Finance Tax Information Booklet](#) (provides overview of gross receipts tax that city imposes on persons who do business in LA, including who is required to pay the tax; note that if you are an independent contractor performing work or rendering services in Los Angeles on a regular basis involving *seven or more working days per year*, you are considered to be doing business in LA and may need to pay this tax!)