



STANISLAWSKI & COMPANY, INC.

A Certified Public Accounting and Business Consulting Firm

May – June 2012

RE: Employment Contracts

Dear Friends of Stanislawski & Company, Inc.:

I hope you are having an enjoyable start to your summer! In our January – February 2012 newsletter we discussed the difference between independent contractors versus employees. Now we are addressing the importance of making sure you have employment contracts for both your employees and your independent contractors (so the person understands the implications of being classified as such.)

People who work for you can be classified as employees or non-employees. Non-employees are also called independent contractors. Employees have to be paid regularly by law, and must have various taxes withheld from their paychecks, plus the employer has to pay payroll taxes on their wages. They are also subject to all of the labor laws. Generally, independent contractors are not subject to labor laws nor do they have to have taxes withheld from their pay. Independent contractors are responsible to pay self-employment tax which includes Social Security taxes and Medicare taxes. Thus, there is a large incentive for companies to classify as many people as possible as independent contractors as it is less expensive. Employment contracts are very important to have for all employees and independent contractors. They can help determine the employment status.

We cannot give legal advice, or cover everything that should be in an independent contractor's contract, but some items to consider for tax purposes are: 1) explicitly stating the person is not an employee, and 2) stating in the contract that the person must pay income taxes and in addition they must pay self-employment taxes. If an independent contractor tries to claim unemployment or other employee benefits, the contract can show they knew they were not an employee and therefore not entitled to such benefits.

Someone who works, even part-time, in your office is not necessarily an independent contractor. This is especially true if they are doing general office and clerical work. 100% of the time we recommend that you seek legal counsel when trying to determine the correct status. Labor attorneys are an important part of every successful business.

California law states that all workers are employees unless proven otherwise. California has a \$5,000 to \$25,000 penalty for misclassification to back-up that law. Also, if a company is caught misclassifying workers, California requires the company to place a "Scarlet Letter" notice (admitting that they have misclassified their workers) on their website for one year.

Remember too that there are requirements to file and pay payroll taxes for anyone who works in your residence - cleaning people, nannies, nurses, gardeners, etc. The federal requirement applies if you pay \$1,800 or more in a calendar year, or \$1,000 or more in a calendar quarter. We can help you determine which forms you need to file, when to file, and how much to pay in taxes.

Please call us if you have any questions regarding the above or any other questions on how to improve your business. That's what we do. It is a pleasure and a privilege to serve all of you - some of you have been clients for over 50 years! If your family or colleagues are in need of a great C.P.A. firm – we would be delighted to discuss with them how we can be of assistance.

Sincerely,

Charles G. Stanislawski, M.B.T., C.P.A.