

HEMENWAY ASSOCIATES

September 2011

TAX CLIENT NEWSLETTER

Employee or independent contractor?

This classification determines if payroll taxes are required

For some business owners, determining whether a worker is an employee or an independent contractor can be tricky. Generally, you must withhold income taxes, withhold and pay social security and Medicare taxes, and pay unemployment tax on wages paid to an employee. However, you don't generally have to withhold or pay any taxes on payments made to independent contractors.

There is a misconception that you may be able to choose which classification works best for your company. In reality, however, the facts and circumstances impose the worker status.



In determining whether the person providing a service is an employee or an independent contractor, you must consider all information that provides evidence of the degree of control and independence. You'll need to answer these four questions:

1. Does the company control or have the right to control what the worker does and how the worker does his or her job?
2. Are the business aspects of the worker's job controlled by the payer? Examples include how a worker is paid, whether expenses are reimbursed, and who provides tools/supplies.
3. Are there written contracts or employee-type benefits like a pension plan, insurance, vacation pay?
4. Will the relationship continue, and is the work performed a key aspect of the business?

Businesses must weigh all these factors when determining whether a worker is an employee or independent contractor. Some factors may indicate that the worker is an employee, while other factors indicate that the worker is an independent contractor. No set number of factors makes the worker an employee or an independent contractor, and no single factor stands alone in making this determination. The concept is to look at the entire business relationship, consider the degree or extent of the right to direct and control, and finally, to document each of the factors used in coming up with the determination.

If you classify an employee as an independent contractor and you have no reasonable basis for doing so, you may be held liable for employment taxes for that worker. File a Form SS-8 with the IRS if the factors for determining worker status remain unclear.

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IRS provides safe harbor guidance for REITS

The IRS issued safe harbor guidance regarding how the IRS will treat real estate investment trusts (REITs) where the entity's real estate holdings are secured by debt which has declined in value. The revenue procedure explains how the IRS will consider distressed mortgage debt when applying the income and asset test to determine the entity's qualification as a REIT. To apply for the treatment, the modified loan

held by the REIT must pass two tests: (1) the REIT or the loan servicer must have reasonable cause to believe that the loan if unmodified will result in a significant risk of default; and (2) the REIT or loan servicer must have reasonable cause to believe that the modified loan will substantially reduce the risk of default.

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Hemenway's years of experience offers clients best possible service

By Anjane` Giles

With age comes experience. With experience comes wisdom. Joseph Hemenway can sit down and tell you all about it. From the farm he grew up on, to serving in the armed forces, to raising seven children, to owning a successful financial firm.*

His business, Hemenway Associates, has been open since 1986. It started out as a consulting operation in 1979. Prior to that, Joe worked as a consultant for H.A. Mayor Jr., and was general manager of Campbell Manufacturing and Trump Industries. He was also Executive Vice President, Secretary Treasurer, company controller, division budget director, accounting supervisor, and senior cost accountant in the manufacturing industry, spanning over 25 years.

In 1986, he decided to formally establish Hemenway Associates as a tax, accounting and consulting company. "I just got tired of working for people," Joe says.

Originally located at 97th and Mockingbird Drive, Hemenway Associates has been operating its business at 11146 Q St. since 1989. Joe acquired securities* and insurance* licenses, and joined H.D. Vest,* a firm that offers financial planning and investment* solutions for tax and accounting professionals.

Joe moved to several different states for his career, before opening Hemenway Associates. His clients know him as "Joe."

His community-based approach reassures people that they are in good hands. Developing strong relationships with clients is one of his main priorities. Some of his customers have been with him since the 1980s.

Joe grew up in Orchard, a small town in northeast, Nebraska. In 1953, Joe joined the U.S. Army, served two years, and then enrolled at Creighton University. He graduated with a Bachelor of Science in Business Administration, and an M.B.A. He was hired as the Senior Cost Accountant at Vickers Hydraulics, a company that manufactured pumps and motors.

He married his wife Virginia, who had just finished nursing school, in 1957. They have seven children, two of whom help run his business. Kathryn, the oldest daughter, is the president of Hemenway Associates, Inc. She graduated from Creighton with a bachelor's degree in political science, and a J.D. Cum Laude.

Her work focuses on tax preparation, business planning, accounting, and representation of clients in tax audits and collection cases. She is also licensed to sell mutual funds,* and is currently working on her insurance* license.

His other daughter Joan, graduated from Creighton University with a B.S.B.A. in management, and an M.B.A. She is currently the vice president of Hemenway Associates, Inc.

The company was incorporated in 2002.

She worked for Hemenway Associates when it first opened its doors 25 years ago, but left to pursue a career in finance at First Data Corporation. There she worked as Director of HR Systems Development, Global Sourcing Program Manager, Software Development Manager and Consultant. She and her husband Steve also run an air filtration company.

"It is rewarding to work for a small, family-owned company where the customers are known by first names, not numbers."

She does the hiring at Hemenway Associates, and brought Candy Bless on board in February of this year. Bless was hired on as a receptionist, but quickly gained the knowledge and skills that landed her more work in the accounting and data entry departments. "It is rewarding to work for a small, family-owned company where the customers are known by first names, not numbers," Bless says.

Joe has attained licenses with the IRS, mutual funds,* investment advising* and securities.* He is an enrolled agent who can represent tax clients with IRS cases in any state in the U.S., and most importantly, offer clients a unique and sensible perspective that has come with many years of practice, observation and commitment.

***Securities offered through HD Vest Investment ServicesSM, Member: SIPC. Advisory services are offered through H.D. Vest Advisory ServicesSM. Hemenway Associates, Inc. is not a registered broker/dealer or independent investment advisory firm.**

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HEMENWAY ASSOCIATES, INC.

PRODUCTS & SERVICES

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- Estate Plans
- Retirement Plans*
- College Saving Plans*
- Business Consulting

ACCOUNTING

- Bookkeeping
- Payroll Services
- Bill Pay
- Budgeting

TAX SUPPORT

- Individual and Corporate tax return preparation
- Estates and Trusts
- IRS and State Audits

INVESTMENTS

- Mutual Funds*
- Stocks and Bonds*
- Traditional and Roth IRAs*
- 401(k) and 403(b) Plans*

INSURANCE

- Life Insurance*
- Variable Annuities*

TAX NEWS AND TIPS

Your Federal tax receipt service launched

In his State of the Union Address, President Obama promised that this year, for the first time ever, American taxpayers would be able to go online and see exactly how their federal tax dollars are spent. The service, Your Federal Tax Receipt, is now up and running. By entering a few pieces of information about your taxes, your Taxpayer Receipt will give you a breakdown of how your tax dollars are spent on government functions such as defense, education, veterans' benefits, and health care. Specifically, you enter the total yearly amount of your Social Security Tax, Medicare Tax, and Income Tax. The breakdown of expenditures for your tax dollars is shown in major categories or can be shown in more detail by selecting the "Expand All Sub-Categories" option. To use this service, go to www.whitehouse.gov/tax_receipt.

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IRS releases list of top filing errors

The IRS has released its list of top errors made on individual tax returns this year. By far, the Making Work Pay Credit and the Government Retiree Credit have caused the most errors. Taxpayers either did not claim the credits or calculated the rate reductions incorrectly. The second most common error was made in determining the taxable amount of social security benefits. Finally, a significant number of errors were made in computing the First-Time Homebuyer Credit Repayment amount. To avoid these common errors, it is important to hire a tax professional you can trust. The rules for these tax calculations are complicated and beyond the ability of most taxpayers to figure out themselves.

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IRS revises rules for withholding on nonresident alien employees

The IRS has issued a Notice providing updated rules for calculating the amount an employer must withhold on nonresident alien employees for services performed within the United States. Generally, nonresident aliens are entitled to only one exemption on their W-4 and they may not claim the standard deduction. Therefore, employers must make special adjustments to their withholding calculation because the regular tax tables take into account the standard deduction. The IRS explained that employers should use tables in the revised Publication 15 (Circular E), Employer's Tax Guide, to calculate nonresident alien withholding taxes.

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Hemenway Associates, Inc.
11146 Q Street
Omaha, NE 68137

Phone: 402-339-4040
Fax: 402-339-9733
E-mail: Joe@hemenwayassociates.org

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Nebraska Sales and Use Tax Due Date (LB 210 – Operative Date: October 1, 2011)

The due date will change from the 25th of the month to the 20th of the month. This change will take effect:

- For monthly filers, with the October return due on November 20, 2011;
- For quarterly filers, with the fourth quarter return due on January 20, 2012; and
- For annual filers, with the 2011 annual return also due on January 20, 2012.

This change applies to the Nebraska and Local Sales and Use Tax Return, Form 10, and the Business Nebraska and Local Use Tax Return, Form 2. The Nebraska and County Lodging Tax Return, Form 64, and the Nebraska Tire Fee Return, Form 93, remain due on the 25th of the month.

http://www.revenue.ne.gov/info/2011_leg_chgs.html

Meet some of the team...

Candy Bless graduated from Iowa State University in 2003 with a B.S. in Environmental Science, with a strong emphasis in math and science. Bless has 10 years of customer service experience in various fields, and enjoys working with clients on a daily basis. She will be completing an accounting class in the fall, and hopes to complete the QuickBooks certification and pass the tax preparer's exam in the next year or two.

Adam DeLaughter has been with Hemenway Associates since 2005. He currently serves as an investment advisor representative.* He has been in the investment industry for 12 years, working primarily in retail brokerage prior to joining the Hemenway staff. DeLaughter has a degree in Business Administration from Briar Cliff College in Sioux City, Iowa. He holds both securities* and investment advisor* licenses.

Jean Hanson has been a part-time employee at Hemenway Associates for the past 10 years. She earned her B.S.B.A. from Creighton University and an M.B.A. from the University of Nebraska at Omaha, with a concentration in Human Resources. Hanson works primarily with corporate clients on their accounting, business, budgetary, tax, or payroll needs. She also prepares personal tax returns during the busy tax season, and is certified in QuickBooks 2010 as a Proadvisor.

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Scott Ritzman has been with Hemenway Associates since March of this year. He began his accounting career at Hemenway Associates with the confidence that he could immediately have an impact on the success of clients, and gain valuable experience in a variety of areas in accounting, particularly tax accounting. He recently graduated from Midland University in Fremont, Neb., with an accounting degree. Prior to joining the Hemenway staff, Ritzman interned with a diversified cattle company, which included several subsidiary companies involved in commercial and residential land development, and golf course management. He enjoys building personal relationships with clients, and developing an understanding of their businesses. When he's not crunching numbers in the office, you can find him working on his golf game.