

## Module 3.6: Hiring Help

So far, in this section we have reviewed the accounting required in starting your business, in maintaining your business and reviewing your business. But there is one more issue I would like to address.

Eventually, as your business grows you will probably need to find some people to help you. The module reviews the basics of what you need to know about the legal requirements and the paperwork involved. If you have people work for you, they can be treated one of two ways: Employees or Sub-Contractors

### Employees

Treating someone as an employee means that you control the way that they work for you. You tell them where to work, how to work and when to work - just as if you were working for someone else. You must have the new employee fill out two forms: the Form W-4, *Employee's Withholding Allowance Certificate* to find out how much tax to withhold and Form I-9, *Employment Eligibility and Identity Verification* to verify they are legally in the United States and allowed to work.

You must then withhold income taxes from each employee according to how they filled out their W-4. You must also withhold the employee's share of Social Security and Medicare (FICA) and also pay the employer's share of FICA, federal unemployment taxes (FUTA), state unemployment taxes (SUTA), and workers' compensation premiums. These are normally remitted monthly or quarterly, depending on the size of your business, along with the appropriate forms.

Since the employee only pays 50% of the FICA taxes, you will need to figure into your budget the other 50% that you - as the employer - must pay (both halves currently total 15.3% of the gross income) plus the unemployment taxes and worker's compensation premiums. There have been businesses out there that started to have cash flow problems and stopped sending these in when they were due and you never want to do that. The IRS is the worst debt collector in the world and they never forget. So be sure to put these things in your budget.

Quite frankly, even though I know how to fill out all of these payroll forms, I find that the small cost of hiring someone to do it or a subscription to a payroll service is worth the peace of mind. Just don't use one of the big firms like ADP which charge a lot. Check around, check prices, and check referrals. Some of the accounting software on the market also provide payroll services for an additional fee as well as the small business services department at your local bank or credit union.

You must transmit your W-2 information with corresponding W-3 cover sheet to the Social Security Administration by January 31st of each year to avoid penalties. If you are mailing it in, it must be postmarked by January 31st and you can only use pre-printed official government forms. These can often be found at office supply stores.

If you have a state income tax, you will also have to send the appropriate forms to your state department of revenue for the state tax withholding.

## **Sub-Contractor**

Treating someone as a sub-contractor means that the person owns their own business and is responsible for all of their own taxes and tax reporting requirements. You may hire them to do a job for you, but you cannot tell them how or when to work like your employees. You are hiring their business.

Probably the best example of using sub-contractors is in the construction industry. A general contractor brings in a framing crew, plumbing company, electrical company, painting company and so forth. The general contractor gets paid for the entire job and then pays each sub-contractor from that. It would be a nightmare to hire all of these trades as employees and have direct control of them all. The general contractor just contracts with the other businesses and gives them timeframes to get the job done.

Another way to look at whether someone is a sub-contractor or not is whether the work they do earns your business income. Anybody else you hire, such as a repairman, is just a business expense.

It is important that you get the difference between employee and sub-contractor correct. If the tax authorities audit your return and determine you have expensed your labor as a sub-contractor, but treated them like employees - they will re-classify them and hit you for the bill for all the back taxes you should have paid, plus penalties and interest. Ouch.

Before a sub-contractor works for you, you need them to fill out a IRS Form W-9, *Request for Taxpayer Identification Number and Certification*. This form accomplished two things. First, it gives you their identification number, name, and address to fill out the Form 1099-NEC.

Second, they attest to the fact that you don't have to withhold taxes from the money you pay them - in essence, they are responsible for pay their own taxes - which helps protect you.

Any sub-contractor you pay more than \$600 a year to must be given Form 1099-NEC stating the amount you paid them and listing their identification number (Social Security or Employer Identification Number [EIN]) and their address. A copy of the 1099-NECs - along with the Form 1096 cover sheet - is sent or transmitted to the IRS showing that they are responsible for their

own taxes, and thus helping protect your business from re-classification. These must be transmitted or sent by January 31st of each year.

Many small businesses give 1099-NEC forms to all sub-contractors they hire (even those who are paid less than \$600) just to have a paper trail in case of an audit.

Whether to hire employees or sub-contractors really comes down to the type of business you are in and how much control you wish to have over those who work for you. Knowing these guidelines should help you make better decisions on the right course of action for you.