

# LAWRENCE TAX SERVICE

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## **NOTICE** **JANUARY 2022**

To: LTS Clients

Re: **Worker Classification: Employee or Independent Contractor?**

(New laws: As reported Fall 2019 and posted on LTS website; see Dynamex and AB 5 mentioned below)

Dear Clients: You have engaged LTS to either prepare your income tax return(s) or Form(s) 1099. As part of that engagement, the tax forms require us to ask you whether you made any payments in 2021 that would require you to file Form(s) 1099 and if "Yes," whether you did, or you will file all required Forms 1099. Because the facts and laws can be very complicated and confusing (especially in California after the Dynamex case and 2019 passage of Assembly Bill 5 creating a rebuttable presumption of employee status subject to an A-B-C Test) in making an accurate worker classification determination (i.e. is the worker truly an employee or independent contractor), and because LTS does not want to knowingly advise an employer to treat an individual as an independent contractor to avoid employee status for that individual, we have attached a few pages out of both the IRS (Publication 15 and 15-A) and CA EDD (DE Employer Guides) for your review on the LTS website ([www.lecprofgroup.com](http://www.lecprofgroup.com)). The complete Employer Guides and further resources are available at the IRS ([www.irs.gov](http://www.irs.gov)) and EDD ([www.edd.ca.gov](http://www.edd.ca.gov)) websites. We encourage you to carefully review this information. If you have any questions on the subject, we encourage you to contact an attorney specializing in the area of employment and labor law to consider your actual situation. The issues and consequences of improper worker classification can be significant and extend far beyond the scope of our engagement and tax expertise e.g. issues with workers compensation liability and premiums, unemployment benefits, wage and hour (overtime) compliance, employee pension and benefits non-discrimination coverage and other matters governed by the California Labor Board and the US Department of Labor. Listed at the bottom of this notice are the names of some attorneys whose legal practice covers labor/employment law that you may wish to contact. In the event of misclassification, they can advise you as to remedial steps and potential new governmental programs that may be offered to achieve corrective compliance.

The issue of worker classification can exist in a non-business context such as with house cleaners, baby sitters/nanny's, care takers, and other domestic workers or any business context (including a landlords rental property business), therefore every LTS client must examine their own situation and decide how to proceed. The government is very serious about facilitating compliance in this area and significant penalties exist if non-compliance is discovered. Accordingly, please answer the following two questions and return your response to LTS as soon as possible, along with your acknowledgment that you have received this notice.

1. Did you make any payments in 2021 that would require you to file Form(s) 1099? ..... Yes \_\_\_ No \_\_\_
2. If "Yes," did you or will you file all required Forms 1099?..... Yes \_\_\_ No \_\_\_.

I, \_\_\_\_\_, acknowledge receipt of this notice and provide LTS with the answers to the above two questions.

Signed: \_\_\_\_\_ Dated: \_\_\_\_\_

\*\*\*\*\* FOR YOUR CONSIDERATION \*\*\*\*\*

### Potential Labor/Employment Law Attorney's:

Mike Daly (619) 525-7000  
Neal Meyers (760) 444-0039

### Potential Payroll Processing Services

Katherine Henshall @ ADP (714) 227-7505  
Rich Polarek @ Paychex (773) 314-7377