

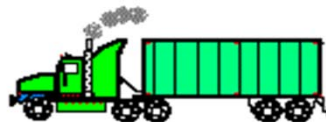


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Contractor or Employee?

Making the best decisions in a complicated environment.



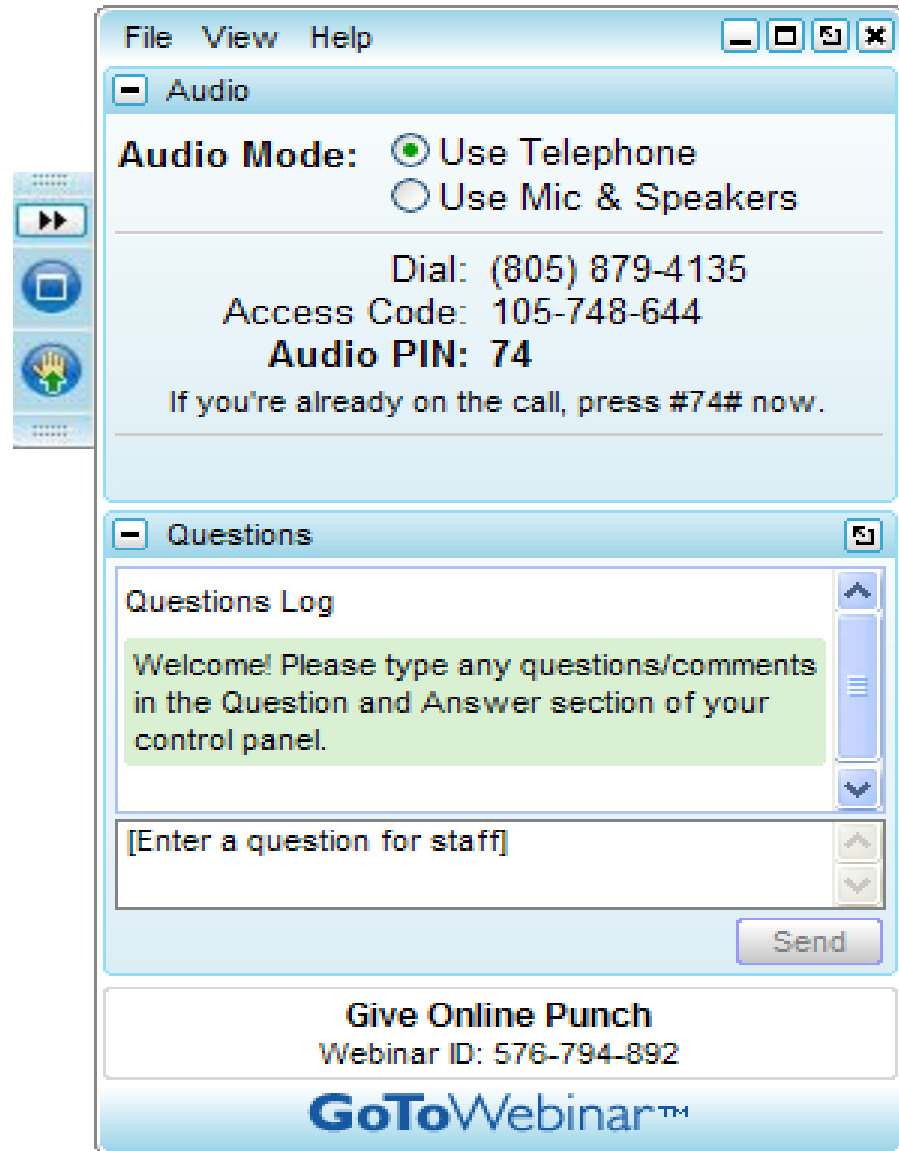
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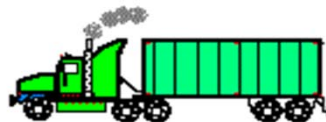
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About the Speaker

Michael A. Ritzema, MBA

- **Founder, Superior Trucking Payroll Service**
- **Nineteen years Payroll experience**
- **Ten years trucking finance experience**
- **CFO for 75 truck fleet and brokerage**
- **Michigan Trucking Association Member**
- **American Payroll Association Member**



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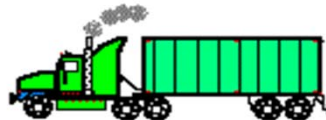
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Today's Webinar Topics:

- 1099 vs W-2 Determination?
- Why pay Per Diem to Employees?
- How to start paying Per Diem.



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Contractor / Employee Determination

- Why the determination matters?
- Extra Costs of W-2 vs. 1099
 - Payroll Taxes and Workers Comp
- Who decides 1099 or W-2?



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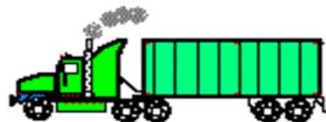
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Who decides 1099 or W-2?

- The IRS and State Governments.
- The IRS has a 20 point test, some state follow that others are more or less strict.
- The government units are looking for money to balance budgets.



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1. INSTRUCTIONS:

An Employee receives instructions about when, where and how the work is to be performed.
An Independent Contractor does the job his or her own way with few, if any, instructions as to the details or methods of the work.

2. TRAINING:

Employees are often trained by a more experienced employee or are required to attend meetings or take training courses.
An Independent Contractor uses his or her own methods and thus need not receive training from the purchaser of those services.

3. INTEGRATION:

Services of an Employee are usually merged into the firm's overall operation; the firm's success depends on those Employee services.
An Independent Contractor's services are usually separate from the client's business and are not integrated or merged into it.

4. SERVICES RENDERED PERSONALLY:

An Employee's services must be rendered personally; Employees do not hire their own substitutes or delegate work to them.
A true Independent Contractor is able to assign another to do the job in his or her place and need not perform services personally.

5. HIRING, SUPERVISING & PAYING HELPERS:

An Employee may act as a foreman for the employer but, if so, helpers are paid with the employer's funds.
Independent Contractors select, hire, pay, and supervise any helpers used and are responsible for the results of the helpers' labor.

6. CONTINUING RELATIONSHIP:

An Employee often continues to work for the same employer month after month or year after year.
An Independent Contractor is usually hired to do one job of limited or indefinite duration and has no expectation of continuing work.

7. SET HOURS OF WORK:

An Employee may work "on call" or during hours and days as set by the employer.
A true Independent Contractor is the master of his or her own time and works the days and hours he or she chooses.

8. FULL TIME REQUIRED:

An Employee ordinarily devotes full-time service to the employer, or the employer may have a priority on the Employee's time.
A true Independent Contractor cannot be required to devote full-time service to one firm exclusively.

9. LOCATION WHERE SERVICES PERFORMED:

Employment is indicated if the employer has the right to mandate where services are performed.
Independent Contractors ordinarily work where they choose. The workplace may be away from the client's premises.

10. ORDER OR SEQUENCE SET:

An Employee performs services in the order or sequence set by the employer. This shows control by the employer.
A true Independent Contractor is concerned only with the finished product and sets his or her own order or sequence of work.

11. ORAL OR WRITTEN REPORTS:

An Employee may be required to submit regular oral or written reports about the work in progress.
An Independent Contractor is usually not required to submit regular oral or written reports about the work in progress.

12. PAYMENT BY THE HOUR, WEEK, OR MONTH:

An Employee is typically paid by the employer in regular amounts at stated intervals, such as by the hour or week.
An Independent Contractor is normally paid by the job, either a negotiated flat rate or upon submission of a bid.

13. PAYMENT OF BUSINESS & TRAVEL EXPENSE:

An Employee's business and travel expenses are either paid directly or reimbursed by the employer.
Independent Contractors normally pay all of their own business and travel expenses without reimbursement.

14. FURNISHING TOOLS & EQUIPMENT:

Employees are furnished all necessary tools, materials, and equipment by their employer.
An Independent Contractor ordinarily provides all of the tools and equipment necessary to complete the job.

15. SIGNIFICANT INVESTMENT:

An Employee generally has little or no investment in the business. Instead, an Employee is economically dependent on the employer.
True Independent Contractors usually have a substantial financial investment in their independent business.

16. REALIZE PROFIT OR LOSS:

An Employee does not ordinarily realize a profit or loss in the business. Rather, Employees are paid for services rendered.
An Independent Contractor can either realize a profit or suffer a loss depending on the management of expenses and revenues.

17. WORKING FOR MORE THAN ONE FIRM AT A TIME:

An Employee ordinarily works for one employer at a time and may be prohibited from joining a competitor.
An Independent Contractor often works for more than one client or firm at the same time and is not subject to a non-competition rule.

18. MAKING SERVICE AVAILABLE TO THE PUBLIC:

An Employee does not make his or her services available to the public except through the employer's company.
An Independent Contractor may advertise, carry business cards, hang out a shingle, or hold a separate business license.

19. RIGHT TO DISCHARGE WITHOUT LIABILITY:

An Employee can be discharged at any time without liability on the employer's part.
If the work meets the contract terms, an Independent Contractor cannot be fired without liability for breach of contract.

20. RIGHT TO QUIT WITHOUT LIABILITY:

An Employee may quit work at any time without liability on the Employee's part.
An Independent Contractor is legally responsible for job completion and, on quitting, becomes liable for breach of contract.



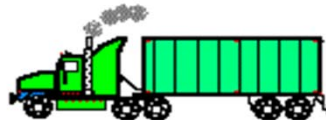
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Contractor / Employee Determination

- **#14 Furnishing Tools and Equipment**
 - Employees are furnished all necessary tools, materials, and equipment by their employer.
 - *An Independent Contractor ordinarily provides all of the tools and equipment necessary to complete the job.*
- **#15 Significant Investment**
 - An Employee generally has little or no investment in the business. Instead, an Employee is economically dependent on the employer.
 - *True Independent Contractors usually have a substantial financial investment in their independent business.*
- **#16 Realize Profit and Loss**
 - An Employee does not ordinarily realize a profit or loss in the business. Rather, Employees are paid for services rendered.
 - *An Independent Contractor can either realize a profit or suffer a loss depending on the management of expenses and revenues.*



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How can my payroll decisions save worker's compensation premium?

- Paying Per Diem



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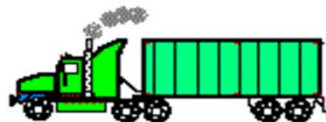


But per diem is not 100% deductible for income tax purposes!

Let's run through the numbers...

A few assumptions for our example

- 10.0% work comp rate for drivers
- 39% marginal corporate income tax rate
- One driver, one week, 2500 miles, 35 cpm, 5 days out on the road



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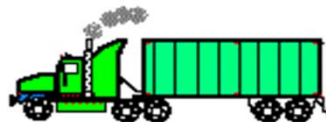
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Per Diem?	Yes	No	Difference
Gross Wage (rate x miles)	\$ 875.00	\$ 875.00	\$ 0.00
Per Diem	295.00	0.00	
Tax deductible wage	580.00	875.00	
Tax deductible per diem (80%)	236.00	0.00	
Net additional taxable	59.00		
Tax difference at 39%			\$ 23.01
Payroll Tax (FICA) savings			(22.57)
Work Comp Savings			<u>(29.50)</u>
Total Net Savings			\$ 29.06

This savings is per driver per week!



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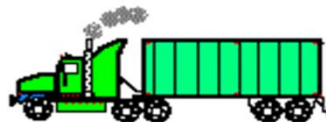


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**\$29.06 per week per driver x 28 drivers x 52 weeks =
\$42,311.36 in savings per year!!!!**



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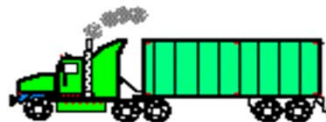
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What about the driver?

Per Diem?	Yes	No	Difference
Gross Wage (rate x miles)	\$ 875.00	\$ 875.00	
Per Diem	295.00	0.00	
Taxable wage	580.00	875.00	
FICA	44.37	66.94	\$ 22.57
Federal Income Tax	31.95	71.20	39.25
State Income Tax	22.64	35.47	<u>12.83</u>
Net Pay before Per Diem	481.04	701.39	
Per Diem	295.00	0.00	
Total Paycheck Amount	776.04	701.39	\$ 74.65



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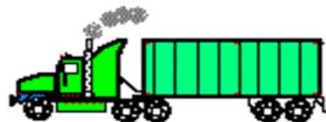
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How to Start Paying Per Diem

- Tell your Drivers!!!
- Make sure your before tax deduction equals your after tax addition.
- Pay by the day, not percentage of pay and not per mile.



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Problems with Paying Per Diem

- Drivers that are deducting on their 1040's now can't.
- Drivers will show less income on their 1040's.
- Drivers near retirement age could lose Social Security Benefits.
- Any work comp claims will be paid at the net of per diem amount.



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Questions?

For more information or a copy
of the slides, please contact:

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