



**Policy Brief:**

**Understanding employee tax misclassification**

**Philadelphia Legal Assistance Low Income Taxpayer Clinic**

**This publication will explain employee misclassification on tax forms, the harmful impact it has on employees, and will encourage employees to advocate for themselves and seek legal assistance if needed.**

**About the advocate**

Philadelphia Legal Assistance (PLA) works to enforce and protect the rights of individuals and families by providing accessible, creative and high quality legal assistance and working collaboratively for systemic change. The Low Income Taxpayer Clinic (LITC) at PLA provides free advice and, in some cases, representation for taxpayers who have tax issues with the Internal Revenue Service (IRS). They also work with other PLA units to provide holistic assistance to clients whose legal issues are related to their taxes.

**The issue**

Employee misclassification is an abuse of economic power by employers and happens when employers do not withhold payroll taxes and either pay employees off-the-books or call them “independent contractors” and give them a 1099 instead of a W-2. This allows employers to avoid their financial and legal responsibilities, but has many negative affects on the employees, including: jeopardizing their unemployment benefits, minimum wage and overtime pay, and family and medical leave; requiring that they pay almost double the amount of taxes; and leaving them with no credit towards Social Security retirement and disability benefits. Misclassification disproportionately affects workers in lower wage jobs and in industries that mainly employ less-formally-educated, women, immigrant, and workers of color, such as home health care and cleaning.



# MAKING POLICY PUBLIC

## **The impact**

The poster will illustrate the harms of misclassification through examples and statistics, and will show workers how they can challenge their misclassification before the IRS so they don't have to pay extra taxes. The poster will also provide information on legal resources, including PLA's LITC, which can assist workers in asserting their rights. Workers will also use the poster to engage in conversations about workplace rights amongst themselves and with their employers, and access legal assistance if needed. Organizations will use it to train staff to better assist misclassified workers, and tax preparers will use it to identify misclassification during tax preparation.

## **The distribution network**

PLA would distribute the poster to PLA's clients in their office and at outreach events, provide the poster to the local Volunteer Income Tax Assistance (VITA) sites (where low-income individuals can get their taxes prepared for free) and to other social service and legal assistance providers that serve workers from demographics and industries in which misclassification is common. The poster would also be distributed nationally to other Low Income Taxpayer Clinics and legal aid projects serving low-wage workers to share with their clients and partner organizations.

