
Employer Risk Alert: Rachel Demarest Gold Article in amNY Law

FEATURED ATTORNEY



Rachel Demarest Gold

Partner

This article was published in the April 9, 2025 edition of amNY Law.

Employer Risk Alert: “*The Independent Contractor Conundrum*.” Misclassifying independent contractors can cost your business millions. In the latest issue of amNY Law, Abrams Fensterman’s [Employment Practice](#) Director, [Rachel Demarest Gold](#), breaks down the regulatory chaos and explains why New York employers are stuck in a never-ending game of “whack-a-mole” with overlapping agencies.

Her message? The rules are murky, the consequences are real, and it’s time for clarity. Read Rachel’s column in amNY Law, “*The Independent Contractor Conundrum*”

EMPLOY

The Independent

My plan for this month was to share all the important and relevant information contained in our New York State budget. But I can't. It was due this week and they don't even have an agreement on how much there is to spend this year.

So, I'm going to talk about an issue that should have been in the budget. Or should be addressed by legislation. (Both approaches have been flirted with over the years but nothing happens.) Meanwhile, the lack of clarity costs employers millions. We are talking about the misclassification of independent contractors.

On more than one occasion an employer has told me that they "chose" to "put" certain people on a 1099 instead of a W2. This is a common, big, and potentially very expensive mistake.

How to classify a worker is not optional. It is a legal standard established by multiple variables. There are both federal and state considerations; and, here in New York, that standard is guarded by worker advocates and aggressively enforced by authorities. Someone cannot choose to be an independent contractor. They are either a separate company, in business for themselves and providing an advertised service, or they are not.

The real problem, though, is the number of different standards that em-

find year people b tors; or t believed an emplo agency's

FEDERAL

On the Department of Employment (EEOC), and (IRS) all contractors. However, an individual business and that they alignment the agen

What do

It means because imposed business behavior nor inter premise supposed a business dream.

NEW YO