

BUSINESS LINE

To Your Success

IS OUTSOURCING RIGHT FOR YOUR BUSINESS?

by Attorney Judy Gedge

How can you as a small business owner provide exceptional service to your clients while keeping overhead costs down? If you're maintaining a staff of employees, you know that every payday you need to make payroll regardless of that period's sales volume. Maintaining employees during a slow period can be a drain on company cash flow. Wouldn't it be great if you could pay your workers only when you needed their services? You may be able to do this by using independent contractors instead of employees.

Your company can retain independent contractors to provide needed manpower for your business as and when you need it. That way, you won't be paying for employees during periods of 'down' time. In addition, by using independent contractors instead of employees you won't be paying employee benefits or payroll taxes for these workers. Big companies jumped on this bandwagon years ago. When they replace employees with independent contractors, it's called 'outsourcing'. This method may work well for your business too.

The terminology may be confusing as independent contractors may also be referred to as '1099s' or as 'subs' and employees may be referred to as "W-2s". Let's first clarify these terms. The term '1099' refers to tax form 1099 that you're required to file for each independent contractor to whom your company pays \$600 or more during the year. The term 'sub' is short for subcontractor which is another term for independent contractor and is commonly used in certain industries like construction. The term 'W-2' refers to tax form W-2 which is completed by employees to reflect their tax deductions for withholding purposes.

If you plan to use independent contractors in your business, it's important to document the arrangement in a written contract. The contract needs to clearly spell out the details of the transaction including the services the contractor will be furnishing, the fee you'll be paying and the schedule of deliverables. A written contract can provide you with valuable protection including:

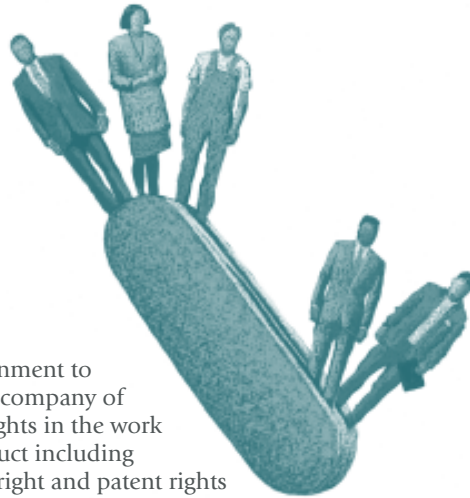
- help in avoiding misunderstandings about the work to be done

- assignment to your company of all rights in the work product including copyright and patent rights
- support for your treatment of the worker as an independent contractor

If you're using independent contractors in your business, you'll need to be careful that your treatment of these workers will pass muster. Agencies such as the IRS and the Labor Department can audit your records and practices to determine if your workers should be treated as employees instead of independent contractors. Based on this they can re-characterize the status of your workers. If this happens, you can be held liable for substantial costs and penalties.

What do the IRS and other government agencies look at in determining whether a worker is an employee or an independent contractor? In general, if a company has the right to direct and control the way a worker does his job, then that worker is considered to be an employee. Conversely, if a company does not have the right to direct and control the way a worker does his job (other than to accept or reject the final work product), then that worker is considered to be an independent contractor. The IRS has identified certain factors to help determine a worker's status which are referred to as the '20 Factor Test'. This test is designed to help distinguish between a 'true' employee and an independent contractor. (See related article on page four.)

Remember the Microsoft case where that company was required to re-classify thousands of workers from contractors to employees at great cost to the company? You don't want that to happen to your business. That's why you'll want to work closely with your attorney and your accountant to get solid legal and tax advice in this area.



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Valuable information for your business including:

- *Getting Important Info from your Accounting System*
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- *Using Independent Contractors Wisely*

The contributors to this newsletter are independent professionals providing general information. Business owners should consult an experienced professional for assistance suited to their particular needs.

THE HIDDEN COST OF \$AVING MONEY ON I.T.

By Sarah Meneo, Key-Logic Education Center

Today's economy demands that companies operate faster, cheaper and better. Budget slashing has become a way of life for most of us, big and small. Where do businesses cut first? This may vary by industry, but it's usually in two areas: payroll and Information Technology (IT). When mixed together, they create a devastating aftermath.

Imagine an accounting department of four people. Two of these employees are laid off and the other two are left to pick up the pieces. Turning to technology in order to automate time-consuming tasks is not an option, since IT spending and training are also gone. The result is poor quality of work, loss of productivity, and most importantly disgruntled workers.

Many companies think the answer is simply to throw the latest technology and software upgrades at the problem. Without highly-skilled IT departments there's no way to determine if the latest upgrades to Windows, Office products, or new PCs will solve the problem. If these solutions are added to the system without proper training and support, you can expect chronic PC crashes and costly downtime. Simply ignoring these issues will eventually cost big.

Here's a look at just how big: Picture 10 employees

working for a small telemarketing company. If each of them experiences a technical crash for an average of 30 minutes per day, that totals five hours of downtime a day at \$14 an hours. The five hours of lost productivity alone equal \$350 per week or \$18,200 per year. These figures aren't including the opportunity cost: lost sales during that time. The higher the salary, the higher the combined loss.

Many companies have found themselves in a situation that demands a cut in staff. The way companies approach the aftermath of this will significantly affect their businesses. If 10 employees are suddenly expected to do the job of 15, give them the technology and the training to achieve those goals. These investments will pay off in profitability and productivity in the long-term. Find an IT consultant and training company that is trusted and experienced with your specific business needs. The economy is bound to return to its thriving state someday, the challenge is making sure that we're all in business when it does!

Key-Logic is a local PC solutions company delivering quality training in short time frames as well as consulting and mentoring services. Key-Logic strives to create out-of-the-box solutions to real business challenges.
www.Key-Logic.com

ARE YOU TAKING ADVANTAGE OF THE SLOW TIMES?

By Annabel Pedomonti, Accounting Software Services

Being in business in the 21st century can feel like riding a roller coaster. You are either so busy your head is spinning or you are wondering when the telephone will ring.

There are steps you should take to prepare yourself for the slow times. A major step is to set up your company on your accounting software program in such a way that it gives you the information you need to weather the slow times. Your file should give you the answers to the following questions:

- How profitable is each department or location?
- Which services/products are the most/least profitable?
- Which projects are the most profitable?
- Which unprofitable sale leads to profitable sales?
- Which group of customers (by location, industry, age etc.) is the most profitable?

You need to understand the difference between sales and profit. Simply put, sales are the monies we make and profit is what is left after we have paid all our expenses. There are two ways to view reports showing both sales and profit – cash and accrual. Cash reports show the monies you received compared to the

expenses for which you have paid. Accrual reports show the sales you made compared to the expenses you incurred. There are limitations to either report:- the cash basis report shows your cash flow situation but ignores the uncollected receivables and the unpaid payables, while the accrual report shows your profitability but provides no information about your cash flow situation. It is advisable to review both reports if your accounting system allows you to do so.

When your books are set up to give you this information, you can use your accounting program to zero in on targeting the client base and the services/products that generate the most profitable sales. It also means that you have the information you need to turn away the business that results in a loss for you, however tempting the cash may seem.

A silver cloud during slow times is that you will have time to do 'housekeeping' tasks you have been putting off, fine tune your bookkeeping and office procedures, renew old contacts, and prepare for the next upswing. If you prepare for the ups and downs of the business cycle you stand a much better chance of thriving instead of merely surviving.

BUSINESS SLOW? GIVE IT AWAY AND IT WILL COME BACK TO YOU ON THE BOTTOM LINE

by Andrea Obston, Andrea Obston Marketing Communications

I'm going to suggest something that may sound crazy, but hear me out. At a time when many businesses are struggling for work from paying clients, I suggest you take on non-billable work. Believe it or not, pro-bono work will show up on the bottom line. And, it's a good way to keep your skills sharp while we all wait for the economy to re-ignite.

There are good business reasons for getting involved in good works. The Center for Corporate Citizenship at Boston College identified five of them:

- It builds brand loyalty;
- It attracts and retains high-caliber employees;
- It smoothes the path for entering new markets;
- It appeals to the growing number of socially-responsible clients;
- And it polishes a business' public image and enhances its reputation.

As an aging Age of Aquarian, I've always believed that giving back to the community should be part of my firm's corporate culture. Everyone on our staff has a pro bono client that they service on company time (and beyond, as we who deal with non-profits are only too aware). Over the past 20 years, we've kept a steady stream of good deeds flowing out of our office from memberships on boards and committees of non-profits, to rounding up unused computers and donating them to schools, to finding and managing the new home for the Vintage Radio Museum.

Our experience is that doing good is good business. It is often one of our recommendations when we do public relations plans for clients. Of course, part of that recommendation is that we make sure our clients aren't shy about telling people what they are up to. Getting credit for good works is something any business – large or small – deserves. And visibility for good citizenship raises the bar for other companies to do the same.

In picking a cause, we strongly suggest that our clients find one that aligns with their values or line of business. We also advise them to make a long-term commitment to the cause they select. We recommend that they dedicate themselves to one cause and stick with it over a 12 month period for maximum impact. Then, we set out to get our clients the recognition they deserve for doing good work.

Here are a few tactics we use:

- Put out a press release announcing the



company's pledge to the cause and outlining their plans. This is especially powerful when you've made a long-term commitment;

- Write an editorial for your local paper encouraging others to do the same;
- Take good quality photos of your people while working on behalf of the cause and send them to the community paper and trade publications;
- Put it on the company website and update it as the project progresses; and
- Send letters to stakeholders letting them know about the efforts and suggesting they get involved. We also invite them to keep up-to-date by regularly checking the website for new developments.

It's worked for us. Last fall my company marked our 20th anniversary with a fundraising party for Connecticut Public Television (CPTV). Invited guests were wined, dined, entertained all while bidding on items at a celebrity auction at the studios of CPTV. The event was a big success, attracting clients, prospects, long-time vendors and former employees. We raised funds and visibility for a good cause and looked like caring and successful members of the business community. After the party was over, we sent photos of guests with our celebrity emcee to their local and business papers. We generated press and buzz and positioned ourselves as a strong company at a time when the winds of failure were blowing hard.

With corporate credibility at an all-time low and a slow businesses environment, there's no better time for businesses to make corporate social responsibility an integral part of their business plan. The key to having it show up on the bottom line is picking the right cause and managing it strategically with clear objectives, established goals and regular review. Because in the end, a company's good reputation is one of its greatest assets.

INDEPENDENT CONTRACTOR: FRIEND OR FOE?

by Yvonne Bruno, CPA, Fulco, DiTommaso, McMahon & Co., PC

Many employers regularly use independent contractors to assist them during periods of heavy volume, or to outsource a process that the employer does not have the staff to complete. This type of temporary help can be very useful and cost efficient, since the workers are only being paid when you need them. (See related article) There is a common misconception that if a worker is either part time or paid less than \$600 per year, they can be considered an independent contractor. This is not the case. As many companies have found out, if a taxing authority determines that a worker should be reclassified as an employee, severe penalties and additional taxes can result. For this reason, it is important to understand the various rules regarding worker classification.

The IRS "Common Law 20 Factors"

Most issues that arise concerning the status of workers relate to the common law rules. These are a set of 20 factors developed by the IRS that center around who has control over the employee performing the service. The more control an employer exerts over a worker, the greater chance that worker is considered an employee. The importance of each factor varies depending on the occupation and the facts concerning the services being performed. The factors are broken down into three types of control:

- Factors demonstrating behavioral control
 1. Is the worker required to perform the work according to specific instructions?
 2. Does the employer train the worker?
 3. Is the worker's services directly integrated into the employer's operations?
 4. Must the worker render the services personally?
 5. Who hires, supervises, and pays assistants to perform the work, the worker or the employer?
 6. Is there a continuing relationship between the worker and the employer?
 7. Are there specific hours required?
 8. Must the worker devote substantially full time to the work?
 9. Where is the work performed, on the employer or worker's premises?
 10. Is there a specific order the work must be performed that is controlled by the employer?
 11. Are oral or written reports required?
- Factors demonstrating financial control
 1. Is payment by the hour or week? Or is payment by the job or on commission?
 2. Is the worker responsible for his or her own business or traveling expenses?
 3. Does the worker use his or her own tools or materials? Or do they use the employer's?
 4. Is there a significant investment in the worker's business?

5. Can the worker realize a profit or suffer a loss as a result of performing the service?

- Factors concerning the relationship of the parties

1. Does the worker work for more than one firm at a time?
2. Are the worker's services made available to the general public?
3. Does the employer have the right to fire the worker?
4. Does the worker have the right to terminate the relationship with the firm without incurring any legal liability?

Just to complicate matters, there is a different set of criteria for both unemployment compensation and worker's compensation claims. These are summarized below.

Connecticut Unemployment Compensation Rules

The Department of Labor (DOL) has historically used the so-called "ABC" test to determine worker status. Under these rules a worker is considered an employee unless they satisfy all three factors below:

- A. The worker is free from control and direction when performing the service.
- B. The service is performed outside of the firm's usual place of business.
- C. While rendering the service, the worker is independently engaged in a business involving the performance of that kind of service.

In essence, the worker must hold themselves out to the public as regularly performing the service. Failure to satisfy these factors, could subject the employer to additional unemployment taxes and penalties.

Worker's Compensation Requirements

The law in this case indicates that a worker is an "employee" when the work is performed according to the will of another. Worker's compensation looks at the method of payment, the tools and equipment used, and the right to terminate the relationship. On the other hand, a worker is an "independent contractor" when they are self-employed and contracts to do the work according to his or her own methods, using their own equipment without being subject to the employer's control. In this case, employee status would result in higher worker's compensation premiums and additional claims.

In each of the above situations, ultimate classification depends on the fact and circumstances involved. For this reason, it is extremely important to obtain the correct guidance from your lawyer and your accountant to minimize any potential liability in this area.

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