

AMA FAQ Sheet

For agents to pass on to artists

WHY CREW SHOULD BE PROCESSED THROUGH PAYROLL

This document is designed to be shared with your Artists to help them to make the shift from paying assistants as independent contractors (i.e. 1099) to processing them through payroll as employees.

Understanding the Employer/Employee Relationship:

Compliance

- Depending on the state in which you are working, your relationship with your crew may be that of an employer/employee.
- Different states have varying tests to distinguish employees from independent contractors. For example, in California, with limited exception, a worker is considered an employee unless the worker (A) is free from the hiring entity's control and direction in performing their work, (B) performs work that is outside the usual course of the hiring entity's business, and (C) maintains an independently established business.
- When it comes to the IRS and the distinction between an employee and independent contractor, the main issue is "control". The more control the principal (i.e., you) has over the crew's hours, location and nature of the work, and the details of payment, the more likely it is the crew will be considered an employee. Click [here for an IRS document](#) that further explains.

Benefits of Using a Payroll Service:

- **Reduced Liability:** Think of an audit as a surprise check on your financial records. If something's amiss, there can be hefty fines. Using services like a payroll company safeguards you from potential missteps.
- **Financial Savings:** With fewer risks on your side, you could see a decrease in your Workers Compensation insurance costs.
- **Stay Ahead:** The industry's rules are ever-changing. By making this change, you're not only compliant today but prepared for tomorrow.
- **Ease and Convenience:** No more complexities of paying your crew directly. Let payroll experts handle it.

Please note: Consistency is key. It's an all-or-nothing approach. Either all crew payments are processed through payroll or none at all. Inconsistent methods might trigger unwanted attention like audits, and if you've misclassified employees as independent contractors you may be liable for back taxes and hefty fines.

What if my crew member doesn't want to be classified as an employee?

Although we can understand their ambivalence, there are some benefits to being classified as an employee:

Advantages for Crew:

- **Stress-free Tax Season:** No more scrambling on April 15. Taxes are deducted consistently, making year-end simpler.
- **Planning for the Future:** Contributions to Social Security now mean potential benefits later.
- **Financial Growth:** Having a solid work and payment record can make things like getting a loan much easier.
- **Safety Net:** A clear employment history can be a lifesaver during unexpected times, like unemployment or crises.

FAQs for CREW

- **Q:** Can I avoid taxes being deducted from my paycheck?
- **A:** Unfortunately, no. Every employee must have tax withholdings. You will be required to fill out a W4 form and you will be able to select the deductions.
- **Q:** I have an LLC or S-corp. Does that automatically make me an independent contractor?
- **A:** Not necessarily. You may still fall under the "employee" category due to the nature of your job. It may be possible for an Artist to contract with your LLC/S-corp to "loan out" your services as an employee.
- **Q:** Why am I considered an employee now when I used to be an independent contractor?
- **A:** Employment laws vary from state to state, and change over time. Also, different Artists or Agencies may have different practices or knowledge. Some might not be updated on the latest regulations. It's possible that the agency or company you were working for was unaware of this compliance issue and misclassified your employment status. It's also possible that, since the compliance standards are frequently being updated—that you were eligible to be considered a contractor in the past, but aren't anymore. Many Agencies are catching up with compliance and you will see this more often, throughout the industry.
- **Q:** I have an EIN. Does that change things?
- **A:** Not necessarily. An EIN alone does not mean you are an independent contractor.

Resources

- Recommended payroll platforms Cast & Crew Advertising & Short Form Production ([CAPS](#)), [ADP](#), [Wrapbook](#) to name a few.