

**Extracted from FLORIDA UNEMPLOYMENT COMPENATION  
EMPLOYER HANDBOOK**

Reference: <http://www.myflorida.com/for>

## **WHO MUST REPORT WAGES AND PAY UNEMPLOYMENT TAXES**

Any **officer of a corporation** performing services for the corporation is an employee of the corporation during their tenure of office, regardless of whether compensation is received. Compensation, other than dividends upon shares of stock and board of director fees, shall be presumed to be payment for services performed.

Any **member of a limited liability company** classified as a corporation for federal income tax purposes who performed services for the limited liability company is an employee of the limited liability company.

**Sales personnel** are considered covered employees. The fact that a salesperson working for an employer is paid solely by commission does not remove the person from the employer's direction and control. The law provides specific exemption only for real estate agents, insurance agents, and barbers who are paid solely by commission. If they are paid by salary only or by salary and commission, both are taxable and the exemption does not apply.

An **employing unit** is the person, limited liability company, partnership, or corporation for whom service is performed. Common law recognizes a master-servant relationship in the exercise of will and control by the employer over the employees. The employer can direct what services will be performed, when and where they will be performed, and can set standards for the quality of work to be rendered.

In **agricultural labor**, either the farm operator or the crew leader may be considered the employer. An individual must hold a valid certification of registration under the Farm Labor Contractor Registration Act of 1993 to be a crew leader. The crew leader is the employer if he/she (1) provides the crew, (2) supervises the work being performed by the crew, (3) has the right to terminate employment, and (4) is responsible for the payment of wages to the workers.

The **farm operator** is the employer if (1) the individual is an employee of the farm operator under common law rules of master and servant or (2) the worker is furnished by the crew leader, but is not treated as an employee of the crew leader, i.e. the crew leader is acting on behalf of the farm operator, rather than as an employer, or (3) the crew leader has entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator.

An **independent contractor** is one who is not subject to the will and control of the employer. The employer does not have the right to control or direct the manner or method of performance, although the results to be accomplished are controlled. Independent contractors hold themselves out to the public as such. Generally, they furnish materials as well as labor and use their own tools in the performance of the work. Services performed by independent contractors cannot be summarily terminated without recourse. **A contract for labor only will normally be considered a contract of employment.** How the worker is treated, not a written contract, determines employment status.

## **Employer-Employee Relationship**

**Employment** means any service performed by an employee for an employing unit.

An **employee** is an individual as defined under the common law rules for employer-employee relationships. An employee is a person who is subject to the will and control of the employer not only as to what shall be done, but how it shall be done.

### **Glossary:**

**Employer** - An employing unit that has met the criteria of liability for payment of unemployment tax.

**Employing Unit** - Any person, partnership, corporation, association, trust, estate, Indian tribe or trustee or receiver that has employed any person at any time.

**Employment** - Any service performed by an individual for an employing unit.