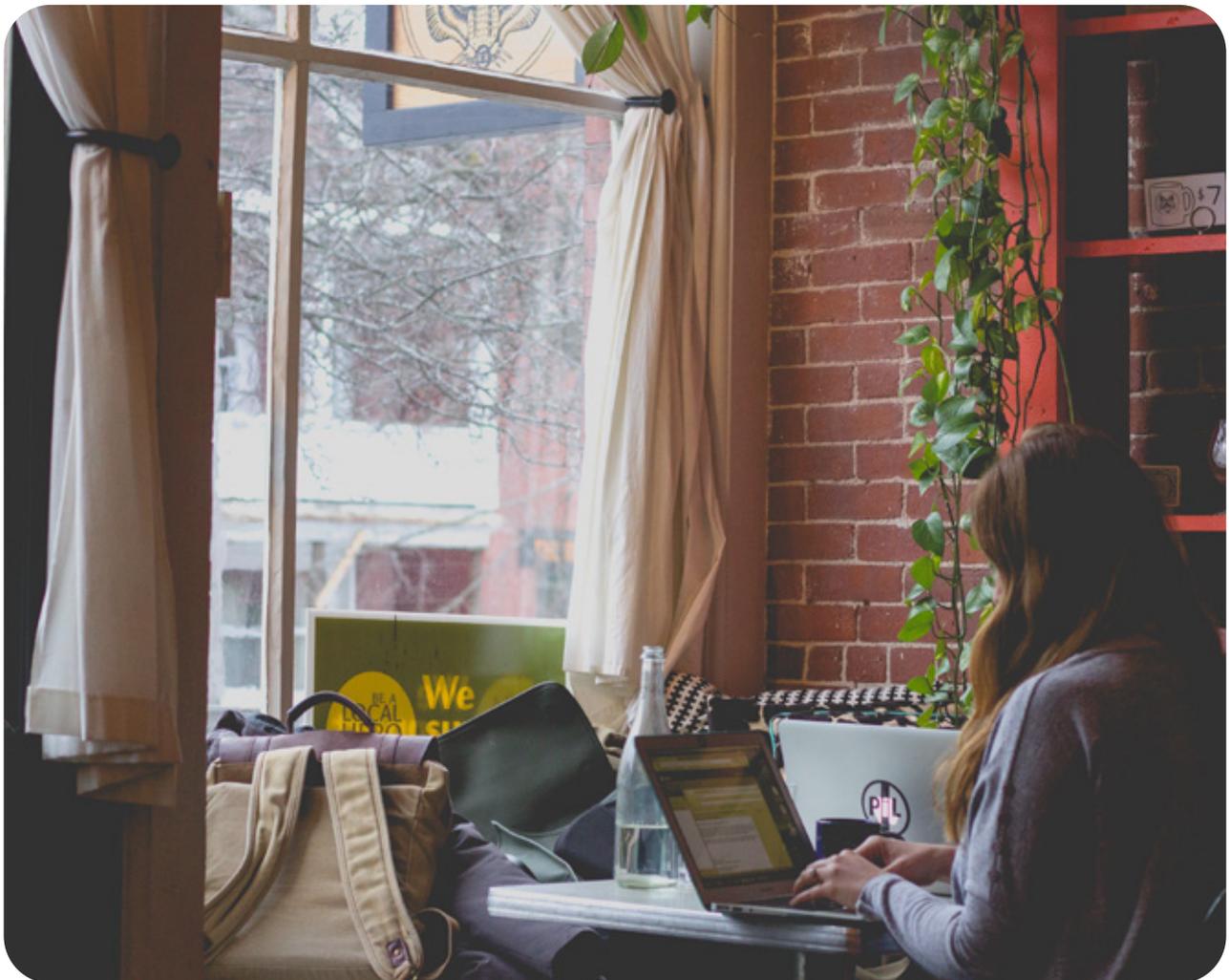


Legal Made Easy

Mastering Remote Hiring: Essential Legal Tools for Legal Executives Expanding Their Business

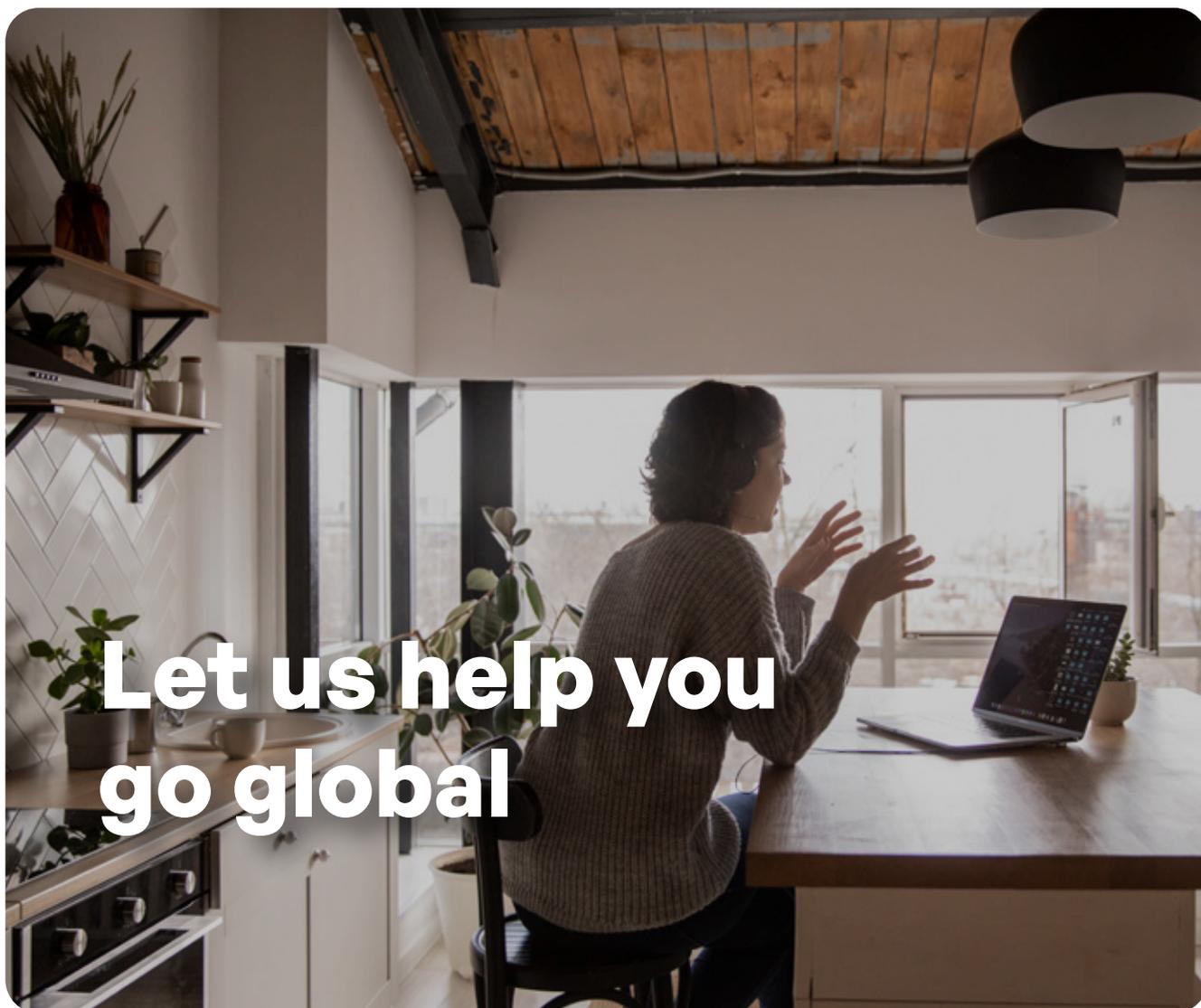
All you need to know to stay compliant when hiring international remote workers



Ontop

What's Inside:

1. Choosing the Right Employment Model: Comparing Independent Contractors and Full-Time Employees. **Pg. 3**
2. Essential Checklist for Creating Independent Contractor Agreements. **Pg. 5**
3. Key Insights about Labor Laws in Latin America. **Pg. 9**
4. Safeguarding Intellectual Property in the Remote Work Era: Effective Strategies for Working with Contractors **Pg. 14**



1

Choosing the Right Employment Model: Comparing Independent Contractors and Full-Time Employees

Understanding the legal differences in work structures, benefits, and compensation.

Choosing the Right Employment Model: Comparing Independent Contractors and Full-Time Employees

Category	Independent Contractors	Full-Time Employee
Work Schedule	Set their own hours and have greater flexibility to work when and how they want.	Follow a schedule set by the employer and have less control over their work schedule.
Taxes	Responsible for paying their own taxes and providing their own tax forms to the Company.	Company withholds taxes from the worker's paycheck and provides necessary tax forms.
Benefits	No benefits provided, but have the ability to negotiate a higher pay rate or non-legal benefits to compensate.	Eligible for benefits (health insurance, retirement plans, etc.) provided by the company.
Training	Responsible for their own training and professional development	Company provides training and professional development opportunities.
Equipment /Tools	Provide their own equipment/tools , which can be a tax deduction.	Company provides necessary equipment/tools for the job.
Payments	Paid for specific projects, tasks, or monthly basis as agreed upon in a contract.	Paid salary or hourly wages based on an agreed-upon rate
Work Location	Have the ability to work from any location , depending on the job requirements	Can work remotely or in employer-provided location , depending on the employer's policies and job requirements.

Disclaimer: *Please bear in mind that legislation and regulations concerning independent contractors and full-time employees can differ significantly between countries and jurisdictions. The details provided in this table are of a general nature and might not apply to all contexts. It's recommended to consult with legal and tax professionals who are well-versed in your specific locale prior to making any employment status decisions.



2

Essential Checklist for Creating Independent Contractor Agreements

Creating a compliant independent contractor agreement is important **to protect both the independent contractor and the client**. By clearly defining the scope of work, payment terms, and other important details in the agreement, both parties can have a clear understanding of their obligations and expectations.

This checklist includes items such as clarifying ownership of intellectual property, ensuring compliance with applicable laws and regulations, and specifying how disputes will be resolved. **By following this checklist, clients can help ensure that their independent contractor agreements are legally compliant** and help mitigate potential legal and financial risks.

- Scope of Work:**

This section should describe the specific work that the contractor will perform, including any deliverables or milestones that must be met. This should be as detailed as possible to avoid any misunderstandings or disputes later on.

- Timeframe and Deadlines:**

This section should specify the timeframe for completion of the work, including any deadlines or milestones. This helps to ensure that the contractor delivers the work on time and helps the client plan accordingly.

- Payment Terms:**

This section should describe the payment terms for the work, including the fee or rate to be paid to the contractor and when payment will be made. It should also include any penalties or late fees for late payment.

- Expenses, Taxes, and Insurance:**

This section should clarify that the contractor is responsible for all expenses associated with completing the work, including equipment, software, and supplies. It should also state that the contractor is responsible for paying their own taxes and maintaining appropriate insurance coverage.



- Non-Disclosure or Confidentiality Clause:**
This section should include a confidentiality clause to protect sensitive or proprietary information. It should specify what information must be kept confidential and for how long.

- Intellectual Property Ownership:**
This section should clarify who will own any intellectual property created during the course of the work, including patents, trademarks, and copyrights. It should also state that the contractor agrees to assign any ownership rights to the client.

- Compliance with Applicable Laws:**
This section should state that the contractor agrees to comply with all applicable laws and regulations governing independent contractors, including tax laws, intellectual property laws, and contract laws.

- Governing Law and Jurisdiction:**
This section should specify the governing law and jurisdiction that will apply to the agreement. This helps to ensure that any disputes will be resolved in a manner that is fair and equitable to both parties.



- Termination Clause:**
This section should outline the circumstances under which either party may terminate the agreement, including breaches of the agreement, insolvency, or bankruptcy. It should also specify how much notice must be given before termination can occur.

- Dispute Resolution:**
This section should specify how any disputes will be resolved, such as through arbitration or mediation. This helps to ensure that any disputes are resolved in a timely and efficient manner.

- Signature:**
This section should include a signature line for both parties to sign, acknowledging and agreeing to the terms of the agreement. This helps to ensure that both parties are fully aware of and agree to the terms of the agreement.

*Disclaimer: This checklist provides a general overview of the essential elements of an independent contractor agreement. However, specific requirements for such agreements may vary depending on the jurisdiction and nature of the work involved. This checklist is not a substitute for legal advice. Please consult with legal counsel to ensure the agreement complies with all applicable laws and regulations. Certain jurisdictions may require additional clauses or provisions in independent contractor agreements.



3

Key Insights about **Labor Laws** in **Latin America**

Latin America is a region of great economic potential, with a growing middle class and a young population. However, businesses that are considering expanding into Latin America **need to be aware of the region's complex labor laws.**

This breakdown of LATAM labor laws provides an overview of the key aspects of labor law in the region. It covers topics such **as applicable labor law, employer tax, employee tax, currency of the salary, and average paid time off.**

Here are some of the key takeaways from this breakdown:

- Each country in Latin America has its own labor law, which sets forth the rights and obligations of employers and employees.
- The applicable labor law is determined by the country where the work is performed, not the country where the employer or employee is located.
- Employers in Latin America are typically required to pay a payroll tax, which is used to fund social security and other benefits for employees.
- Employees in Latin America are typically required to pay income tax, which is based on their salary.
- The currency of the salary in Latin America depends on the country.
- The average paid time off in Latin America varies from country to country.



Aside from the latter, it is important to keep in mind that many Latin American countries use the principle of primacy of reality to determine the true nature of a relationship between an employer and an employee. This principle, also known as the doctrine of the real relationship, holds that the actual circumstances of the relationship are more important than the legal terms of the contract.

As a result, even if an employer and an employee have signed a contract that states that the relationship is one of independent contractorship, the courts may still find that the relationship is actually one of employment if the facts of the case indicate that the employee is under the control and direction of the employer.

To get a better understanding of how this principle applies, we have included a section that establishes the key elements that constitute a labor relationship, which are the aspects that can lead judges to determine the existence of a labor relationship.

By understanding the labor laws in Latin America, your company can make informed decisions about whether to expand into the region to avoid legal problems and ensure that they are complying with the law.

Country	Labor Law	Employer tax	Employee Tax	Currency	Average paid time off	Elements that Constitute a Labor Relationship
Argentina	Ley de Contrato de Trabajo N° 20.744 y sus modificatorias	30.35%-31.47%	22%-52%	Argentine Peso	10 days	<ul style="list-style-type: none"> 1) Access to company's distinctive softwares like email. 2) The company provides the independent contractors with working elements such as mobile phone, uniform, computer, etc. 3) Reports to client's personnel



Key Insights about Labor Laws in Latin America

Country	Labor Law	Employer tax	Employee Tax	Currency	Average paid time off	Elements that Constitute a Labor Relationship
Brazil	DECRETO-LEI N° 5.452, DE 1º DE MAIO DE 1943 - CLT	29%-33.5%	7.5%-41.5%	Brazilian Real	30 days	<ol style="list-style-type: none"> 1) services rendered on a personal basis. 2) permanent/habitual basis. 3) subordination. 4) Remuneration.
Colombia	Código Sustantivo del Trabajo	12.522% - 36.46%	8%-49%	Colombian Peso	15 days	<ol style="list-style-type: none"> 1) the personal activity of the employee; 2) continued subordination or dependency of the employee with respect to the employer, granting the employer the authority to give orders and instructions at any time concerning mode, time, or quantity of work; and 3) Remuneration
Ecuador	Código del Trabajo	11.15%-17.35%	8.5%-12.5%	US Dollar	15 days	<ol style="list-style-type: none"> 1) Personal provision of the service. 2) Subordination and dependence. 3) Established working hours. 4) Remuneration



Key Insights about Labor Laws in Latin America

Country	Labor Law	Employer tax	Employee Tax	Currency	Average paid time off	Elements that Constitute a Labor Relationship
Mexico	Ley Federal del Trabajo	36.69%-43.7	4.695%-37.77	Mexican Peso	20 days	1) Subordination. 2) Remuneration. 3) Rendering a Personal Service.
Peru	DECRETO LEGISLATIVO N° 728 - Ley de Fomento del Empleo	21.5%-22%	25%-55%	Peruvian Sol	30 days	1) Rendering personal services 2) Compensation 3) Subordination
Venezuela	Ley Orgánica del Trabajo, los Trabajadores y las Trabajadoras	15.75% - 27%	6.00 %	Venezuelan Bolivar	15 days	1) Rendering personal services. 2) Compensation. 3) Subordination.

Disclaimer: This breakdown is intended to be a comprehensive and informative resource for businesses that are considering expanding into Latin America. It is not intended to be legal advice, and businesses should consult with an attorney or other qualified professional to get specific advice on the labor laws in the countries where they are doing business.



Safeguarding Intellectual Property in the Remote Work Era: Effective Strategies for Working with Contractors

The rise of remote work and the use of contractors has presented new challenges for protecting intellectual property (IP) within organizations. **This article explores strategies and best practices for safeguarding your company's valuable IP** when working with remote contractors.

Establishing Clear Expectations

Defining the scope of work: Clearly outline the specific tasks and responsibilities assigned to remote contractors to minimize the risk of accidental or unauthorized access to sensitive IP.

Non-disclosure agreements (NDAs): Require contractors to sign NDAs that explicitly state their obligation to maintain confidentiality regarding your company's proprietary information. If you are using contractors distributed in multiple jurisdictions, make sure that your NDA can be enforced in the jurisdiction of residence of the contractor. If you enter into template form agreements that cannot be enforced in the country of residence of your contractor, the protections in those NDAs can become useless.

Policies and governance:

Confidential information or trade secrets policy: your Company may implement a trade secrets policy to protect classified information. The graph below shows a structure to protect intellectual property assets through trade secrets:



Secure Communication Channels:

Encryption and secure file sharing: Encourage the use of encrypted communication channels and secure file-sharing platforms to protect sensitive data and documents shared between your company and remote contractors.

Virtual private networks (VPNs): Recommend using VPNs to ensure secure remote access to your company's network, preventing unauthorized access to IP.

Restricting Access:

Need to know access control: Consider implementing a system that grants contractors access to only the specific resources and information they require to perform their tasks, reducing the risk of unauthorized exposure to sensitive IP.

Time-limited access: Consider granting temporary access to contractors and regularly reviewing and updating access privileges based on project needs.

Regular Training and Education:

IP protection awareness: Conduct training sessions or provide educational materials to remote contractors about the importance of IP protection, including identifying and handling sensitive information.

Cybersecurity best practices: Educate contractors on best practices for maintaining strong passwords, recognizing phishing attempts, and adhering to cybersecurity protocols to mitigate the risk of data breaches.



Monitoring and Auditing:

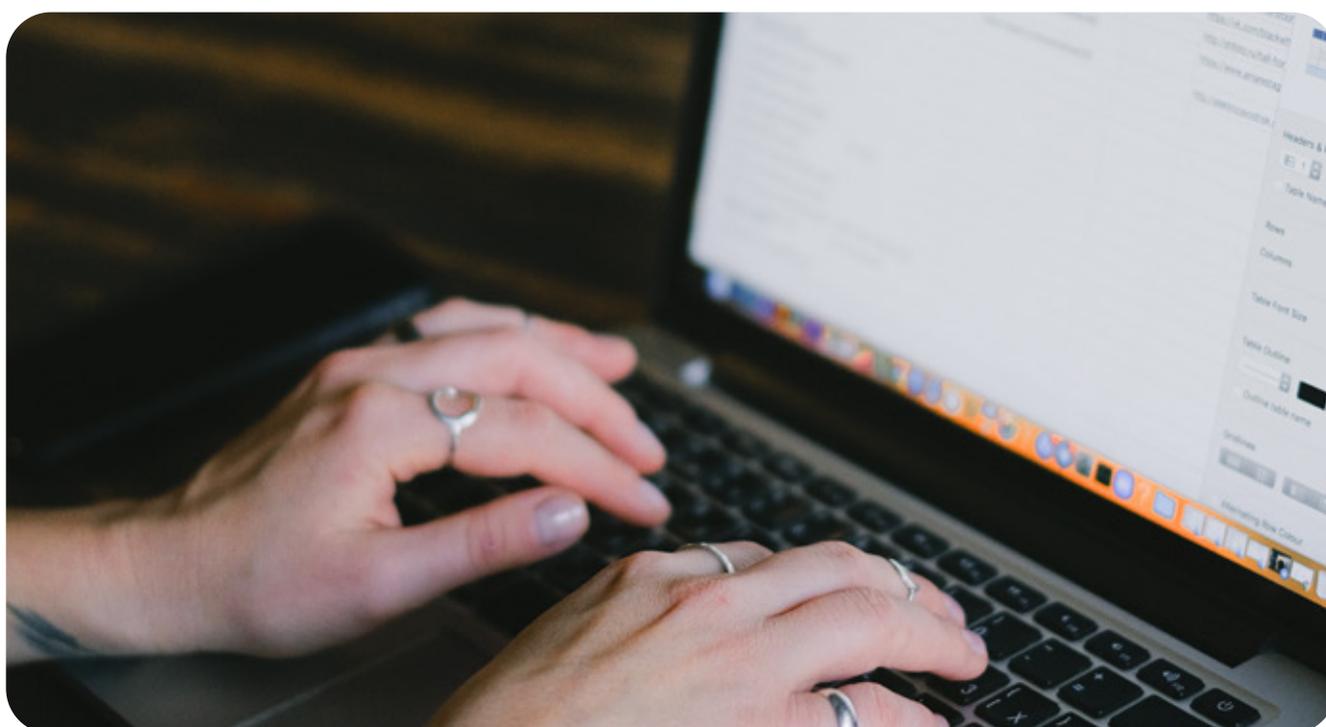
Regular monitoring: Implement systems to monitor contractor activities and access to ensure compliance with IP protection policies.

Periodic audits: Conduct periodic audits to assess the effectiveness of IP protection measures and identify any potential vulnerabilities or areas for improvement.

Intellectual Property Ownership:

IP ownership clauses: Include clear IP ownership clauses in the contracts with remote contractors, specifying that any IP created during their engagement belongs to your company.

Dispute resolution mechanisms: Establish procedures for handling IP disputes, including arbitration or mediation clauses, to resolve any conflicts that may arise.



Continuous Evaluation and Improvement:

Regular review: Continuously evaluate your IP protection strategies and practices to identify any gaps or evolving risks, considering advancements in technology and changes in remote work dynamics.

Feedback mechanisms: Encourage contractors to provide feedback on the effectiveness of IP protection measures and address any concerns or suggestions they may have.

It is crucial to recognize that contractors should not be treated as employees. To maintain proper classification and avoid any potential misclassification risks, companies must implement these points while strictly adhering to their role as contracting parties.



It is essential to ensure that the implementation of these measures does not blur the line between a contractor and an employee, as it is the contractor's responsibility to manage their own work and the company's responsibility to maintain the contractor relationship within legal bounds.

When implementing these points consider the following to avoid misclassification:

Establishing Clear Expectations:

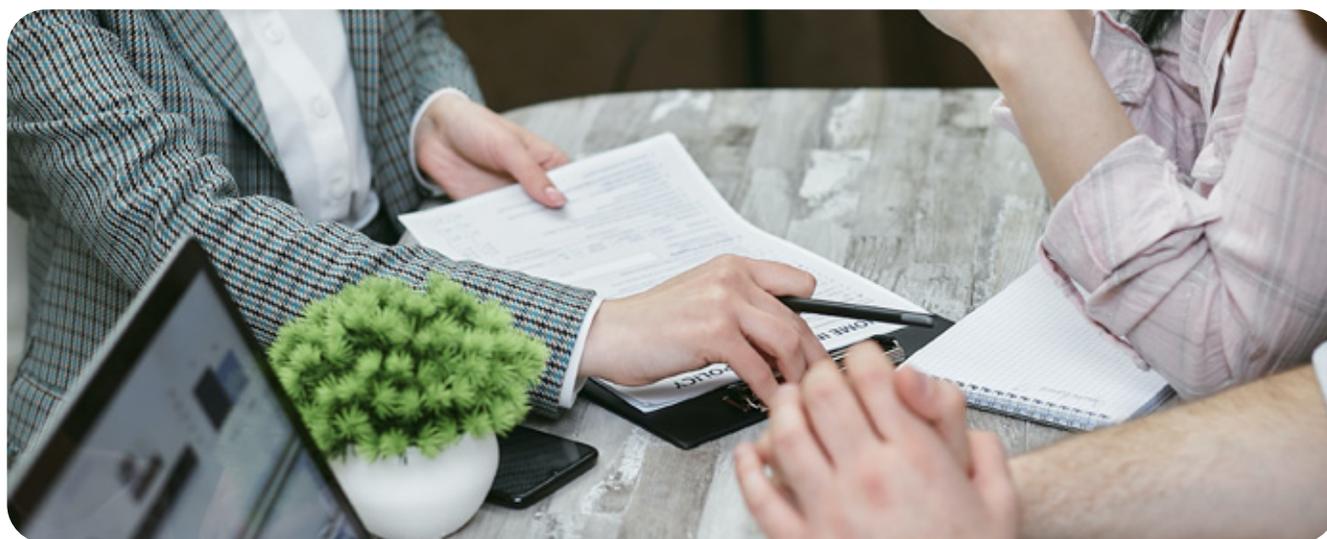
Defining the scope of work: While it is important to outline the tasks and responsibilities of remote contractors, it is essential to ensure that the level of control and direction exerted over contractors does not cross the line into an employment relationship.

Restricting Access:

Role-based access control: If the access restrictions imposed on remote contractors are overly rigid and resemble the control typically exercised over employees, it may raise concerns regarding misclassification.

Regular Training and Education:

IP protection awareness: Providing training to remote contractors on IP protection can be beneficial, but if the training sessions or materials go beyond educating contractors about IP-related matters and involve aspects of job performance, it may blur the line between contractor and employee.



Monitoring and Auditing:

Regular monitoring: While monitoring contractor activities can be necessary for security and compliance reasons, excessive monitoring or control could be interpreted as indicative of an employment relationship.

It's important for companies to be aware of the legal criteria for worker classification in their jurisdiction to minimize the risk of misclassification. To mitigate this risk, companies should consult legal counsel, adhere to local employment laws, and carefully review their relationships with remote contractors to ensure compliance with applicable regulations. This document is not intended to be legal advice, and businesses should consult with a legal counsel to get specific advice on the labor laws in the countries where they are doing business.

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