

MORRISON & ASSOCIATES CPAs

DES Audit Issues

It is important that contractors understand that the Arizona Department of Economic Security **DOES NOT** follow the IRS 20 questions test for independent contractor status for state unemployment taxes.

Under Arizona State law, the courts look at 8 factors to decide if a person is an independent contractor:

- 1 Extent of control over the work and the degree of supervision.
- 2 Distinct nature of the worker's business
- 3 The occupation's required specialization
- 4 Who provides the materials/where is the place of work
- 5 The duration of the "employment"
- 6 The method of payment
- 7 The relationship of the work done to the regular business of the employer
- 8 The belief of the parties

Little weight is given to number 8, even if it is contained in a contract. The factors aren't weighed equally, and DES (backed by the courts) errs on the side of declaring someone an employee for state unemployment taxes. The above comment does not constitute legal advice but does express the experience based opinion of our Firm.

CONCLUSION:

We strongly recommend that you review your internal Independent Contactor status for those to whom you issue 1099s. Please consider the impact of their status in light of the 8 DES factors above and adjust your reporting responsibilities accordingly.