

The Artist as Entrepreneur

Do I Get a Job or Make a Job?

Lesson Description

How frequently an artist must pay taxes, the amount of taxes an artist pays, the number of deductions available to an artist, and how an artist must report his/her taxes all depend on the artist's employment status. In this lesson, students will determine which artist's activities reveal the artist to be an employee of someone else and which activities are those of an independent contractor.

Concepts

Employee v. independent contractor

Related Subject Areas

taxes

Objectives

Students will:

State the benefits of working as an employee

State the benefits of working as an independent contractor

State the disadvantages of working as an employee (optional)

State the disadvantages of working as an independent contractor (optional)

Materials

Visual 1, *The Employer-Employee Relationship*

Visual 2, *The Employer-Independent Contractor Relationship*

Procedure

1. Introduce the lesson by asking for a show of hands of students who someday hope to work in the arts. Make a mental note of those who raised their hands.
2. Ask for a show of hands from those who would like to be artist entrepreneurs. Ask those students who expressed an interest in working in the arts but expressed no interest in being an entrepreneur what type of work they are interested in. (Answers may include working for a dance troupe, working as a web designer for a company, working as a greeting card designer for Hallmark.) Explain that those students who would like to work in the arts but would not want to have a business of their own are describing themselves as employees.

The Artist as Entrepreneur

Do I Get a Job or Make a Job?

3. Explain that the artist's employment status will, to a large extent, determine the amount of time and energy he/she will need to devote to record keeping and tax return preparation.
4. Explain that an artist who is employed full-time by one employer and who does not have a complicated investment portfolio can file a Form 1040EZ or Form 1040A with the IRS. However, a performing artist who wants to claim business expenses for working on the road or a visual artist who wants to deduct the cost of supplies must file a Form 1040 in addition to several other forms.
5. Point out that there is a difference between an independent contractor (entrepreneur) and an employee. Employees receive a regular paycheck from the organization for which they work. Independent contractors are paid for each job they complete for an organization. Using these criteria, ask students if they believe the following work is being performed by an employee or an independent contractor.
 - Nanette Johns is Principal Violin for the Springfield Symphony Orchestra. (*employee*)
 - John Evans is a guest conductor for the Bloomfield Symphony Orchestra. (*independent contractor*)
 - Kea Grimm is a staff photographer for the Springfield Daily News. (*employee*)
 - Lonny Hamm takes celebrity photos and submits them to various publications. (*independent contractor*)
 - Liam Sweet submits short stories to literary magazines. (*independent contractor*)
 - Darla Greeley writes a weekly article for the Sierra Sentinel. (*most likely employee, but could be independent contractor fulfilling a contract with the Sentinel*)
6. Display Visual 1, *The Employer-Employee Relationship*. Using a staff photographer at a magazine as an example, explain that the photographer receives daily assignments from his editor, film from the supply cabinet, and weekly paychecks from the payroll department. Referring to the visual, point out that the employee has federal, state, local and his share of FICA (7.65 percent) deducted from his paycheck. His employer is required to pay an additional 7.65 percent of the photographer's FICA and provide coverage for worker's compensation and unemployment insurance. Many employers also offer fringe benefits such as health insurance and retirement plans.
7. Explain that, as an employee, the photographer gives up the exclusive rights of authorship, including copyright, for the work he creates within the regular scope of his job. If the photographer wants to make any other reproductions or use of his photographs, such as inclusion of his work in a book, he must obtain permission from the magazine for which he works.

The Artist as Entrepreneur

Do I Get a Job or Make a Job?

8. Display Visual 2, *The Employer-Independent Contractor Relationship*. Point out that employers do not have to withhold or pay any taxes on payments made to independent contractors. Instead, the employer must file a Form 1099-MISC with the IRS if the employer pays an independent contractor \$600 or more during the year.
9. Using a freelance photographer as an example, explain that the freelance photographer hired to shoot a special cover for an art museum annual report works as an independent contractor. He uses his own camera, studio, and darkroom, sets his own hours, and is paid a flat fee for his work. The photographer is responsible for paying quarterly taxes on self-employment income and what amounts to both the employee's and employer's share of FICA (15.3 percent). He is not entitled to fringe benefits or unemployment. He may not be covered by worker's compensation.
10. Explain that, unlike an employee, the freelancer automatically owns the copyright, unless a written agreement transfers that ownership. The ownership, which is separate from the physical possession of the work itself, gives the photographer reproduction, adaptation, distribution, sale, and display rights. He may simply assign the right to print the cover photograph to the museum for a one-time use, or for any other agreed upon number of times.

Closure

Draw a T-chart on the board and label the columns "Benefits of Being an Employee" and "Benefits of Being an Independent Contractor." Explain to the students that there are advantages and disadvantages to being an employee, and the same holds true for an independent contractor. Instruct students to state as many benefits as they can for each group of workers. (*Students may respond with the following benefits for an employee: a regular paycheck; job security; fringe benefits, such as health care or retirement; less record keeping; less complicated tax filing. Students may respond with the following benefits for an independent contractor: greater independence in choosing assignments; an ability to seek higher pay for a job; maintenance of copyright protection; the ability to work for a variety of organizations; greater variety in assignments.*)

OPTIONAL ACTIVITY

If time permits, draw a similar T-chart to record the disadvantages of being an employee and those of being an independent contractor. (*Possible answers for the disadvantages of being an employee could include the following: routine assignments; loss of creative control; loss of ownership; earnings are limited. Possible disadvantages of being an independent contractor include loss of security; no fringe benefits; greater complexity in tax filings; more detailed record keeping required.*)

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Extension

1. Invite two artists to your class (at different times) – an employee of an organization and an independent contractor. Have each discuss the benefits of their chosen work relationships.
2. Instruct students to interview an artist working as an employee and one working as an independent contractor. Have students present a report on their interviews in the class.

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Visual 1

The Employer-Employee Relationship

The employer

- withholds employees' taxes.
- pays one-half of employees' Social Security tax (FICA).
- may provide fringe benefits, such as health and retirement plans.
- assigns all work.
- holds the copyright for all work performed by the employee.

The Artist as Entrepreneur

Do I Get a Job or Make a Job?

Visual 2

The Employer-Independent Contractor Relationship

The independent contractor

- must file and pay her own employment taxes.
- must pay her full Social Security tax (FICA).
- does not receive fringe benefits.
- must gather her own resources (tools of his trade).
- can choose which jobs she wishes to perform.
- holds the copyright for her work (unless she transfers the right to the employer).