



## **Recent Data Reaffirm the Need to Protect the Right of Self-Employment**

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While much has been written about the alleged need to help the self-employed by treating them more like employees, several recent studies dispel this myth and suggest that those who offer their services as independent contractors are generally happier than those who toil away as employees and that these individuals are not seeking any change to their current status.

Over the past few years, the U.S. Department of Labor (“DOL”) and state unemployment agencies have intensified their enforcement efforts targeting independent contractors and their clients. Moreover, in July of 2015, DOL increased the level of uncertainty among firms doing business with independent contractors by publishing an [Administrator’s Interpretation](#), which offers a new interpretation of the “economic realities” test that would make it more difficult for self-employed entrepreneurs to qualify as independent contractors for purposes of the Fair Labor Standards Act.

Those who are opposed to self-employment have created a narrative to support these initiatives that characterize independent contractors as oppressed workers whose status is imposed on them, in some cases against their will. This rhetoric, while perhaps true in isolated incidences, is generally not accurate and is contradicted by broader research findings.

The truth of the matter is that individuals tend to work as independent contractors by choice, and not by having that status imposed on them. These individuals generally are very happy with their self-employed status; and they represent a powerful source of efficiency, productivity and job creation. The following discusses recent data and research findings that confirm these positive characteristics of independent contractors.

### **A Shrinking Sector of the Economy**

According to the Pew Research Center, in 2014 there were 14.6 million self-employed Americans.<sup>1</sup> A recent study commissioned by Elance-oDesk and Freelancers Union found the number to be even higher namely, 21.1 million independent contractors.<sup>2</sup> Despite the seemingly robust size of this sector, the share of American workers who are self-employed has decreased in recent years from 12.2 percent in 1994, the most recent peak, to 10 percent in 2014.<sup>3</sup>

The decline in the size of independent contractors as a percentage of the overall workforce demonstrates that independent contractors are not a burgeoning sector of the economy. Accordingly, the claim by some critics that independent contractors are increasingly used by businesses as a scheme to exploit their workers, by reclassifying them as independent contractors and then denying them benefits, is simply not supported by the evidence. If such a trend toward increased misclassification actually did exist, then one would expect independent contractors to represent a growing, not shrinking, percentage of the workforce.

## **Higher Education Level**

Independent contractors operate in a variety of industries and are often well educated. According to a U.S. Government Accountability Office (“GAO”) study released in April 2015, independent contractors generally achieve a higher level of education relative to full-time employees. The GAO study reports that in 2005, 35.1 percent of independent contractors earned at least a bachelor degree, as compared to 31.7 percent of full-time employees; and 13.2 percent of independent contractors earned a graduate degree, compared to only 10.9 percent of full-time employees.<sup>4</sup>

Similarly, in 2010, 39.2 percent of independent contractors earned at least a bachelor degree and 13.6 percent earned a graduate degree, while 36 percent of full-time employees earned a bachelor degree and 13.6 percent earned a graduate degree.<sup>5</sup>

## **Higher Earnings**

In addition to obtaining a higher level of education than many full-time employees, many independent contractors also earn higher incomes. An Elance-oDesk/Freelance Union study found that 77 percent of freelancers earned the same or a greater amount than they did before they began freelancing.<sup>6</sup> The study defines freelancers to mean individuals who have engaged in supplemental, temporary, or project – or contract – based work in the past 12 months.<sup>7</sup> It found that independent contractors comprise 40 percent of the freelance workforce.<sup>8</sup>

Similar findings were reported in a study conducted by the California Trucking Association and the Inland Empire Economic Partnership that compared the net earnings of California Independent Owner Operators (“IOOs”) with the earnings of employee drivers. The study found that in 2013, California IOOs earned a median net income of \$59,478, which is \$17,400 higher than the median pay earned by California employee drivers of \$42,078.<sup>9</sup>

A study released in 2014 by a pro-employment advocacy group suggests that business outsourcing through practices such as independent contracting, has led to lower wages and poor working conditions.<sup>10</sup> The foregoing data confirm that in many industries, self-employed individuals enjoy higher earnings.

## **Higher Job Satisfaction**

Independent contractors also report higher job satisfaction than full-time employees. The GAO found that in 2010, 56.8 percent of independent contractors reported that they were “very satisfied” with their jobs, while only 8.1 percent reported they were “not at all/not too satisfied.”<sup>11</sup> By contrast, only 45.3 percent of full-time employees reported that they were “very satisfied” with their jobs, and 9.5 percent reported that they were “not at all/not too satisfied.”<sup>12</sup>

In addition to their high level of job satisfaction, 85.2 percent of independent contractors reported in 2005 that they did not want a different type of work arrangement, compared to only 9.4 percent who reported that they would prefer an alternative arrangement.<sup>13</sup> Furthermore, the Elance-oDesk/Freelance Union study found that 77 percent of freelancers reported that they believe the “best days of the freelance job market are still ahead.”<sup>14</sup>

A recent post on the DOL's blog stated that employers deliberately misclassifying their employees as independent contractors "is all too common – with terrible consequences."<sup>15</sup> The foregoing demonstrates that such claim is not supported by the data. The majority of independent contractors are satisfied with their independent contractor status and more than 85 percent prefer their contractual arrangement to an alternative arrangement. Such large numbers of independent contractors would not report high job satisfaction rates if they were suffering "terrible consequences" as a result of their self-employed status.

### **Contributor of Economic Value**

Self-employed individuals contribute substantially to the economy through their own work. But they also provide jobs to 29.4 million individuals, who represent 20 percent of the labor force.<sup>16</sup> According to the Pew Research Center, in 2014 self-employed individuals and their employees together represented almost one-third of the American workforce.<sup>17</sup> Additionally, the Elance-oDesk/Freelance Union study estimated that the freelance workforce adds \$715 billion annually to the American economy.<sup>18</sup>

Furthermore, independent contractors help small businesses compete with larger organizations by reducing the importance of economies of scale. For example, a small trucking company can offer timely and efficient nationwide delivery by contracting with multiple independent truck drivers located around the country.<sup>19</sup>

Critics of independent contractors should carefully consider the consequences of eliminating the opportunity of self-employment. It is likely that jobs would be eliminated, competition would be reduced, and \$715 billion in annual economic value would be jeopardized.

### **Tax-Compliant Sector**

Independent contractors commonly work on a project-by-project basis and provide services to many clients. Because these are business-to-business relationships, their clients do not withhold income or employment taxes from their fees. Independent contractors pay their own taxes and are almost as compliant reporting their earnings for federal tax purposes as Form W-2 employees who are subject to tax withholdings. According to IRS studies, 99 percent of income earned by employees, which is reported on a Form W-2, is reported to the IRS, while 96 to 97 percent of income earned by independent contractors, which is reported on a Form 1099, is reported to the IRS.<sup>20</sup>

It has been argued by critics of independent contractors that individual contractors are more likely to underreport their income than employees. While 96/97 percent is less than 99 percent, the difference is *de minimis*.

### **Conclusion**

The foregoing statistics, facts and figures demonstrate that independent contractors generally are happy with their status and are not seeking a government solution that would make them employees of their clients.

Moreover, this sector provides valuable fuel for the American economy's engine of growth. Independent contractors are well educated, they often earn higher incomes than full-time employees, and they create millions of jobs. Independent contractors should be supported, not undermined.

It is critically important that the nation's policy makers receive all the facts about independent contractors before making any decisions that could jeopardize the vitality of this important sector of the economy. For more information on how to become involved in this effort to get the facts out and protect the legal recognition of independent entrepreneurs, contact us today at [info@iecoalition.org](mailto:info@iecoalition.org).

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<sup>1</sup> RAKESH KOCHHAR ET AL., THREE-IN-TEN U.S. JOBS ARE HELD BY THE SELF-EMPLOYED AND THE WORKERS THEY HIRE, HIRING MORE PREVALENT AMONG SELF-EMPLOYED ASIANS, WHITES AND MEN 5 (Pew Research Center, 2015) available at [http://www.pewsocialtrends.org/files/2015/10/2015-10-22\\_self-employed\\_final.pdf](http://www.pewsocialtrends.org/files/2015/10/2015-10-22_self-employed_final.pdf).

<sup>2</sup> FREELANCING IN AMERICA: A NATIONAL SURVEY OF THE NEW WORKFORCE 5 (Elance-oDesk and Freelancers Union, 2014) available at [http://fu-web-storage-prod.s3.amazonaws.com/content/filer\\_public/c2/06/c2065a8a-7f00-46db-915a-2122965df7d9/fu\\_freelancinginamericareport\\_v3-rgb.pdf](http://fu-web-storage-prod.s3.amazonaws.com/content/filer_public/c2/06/c2065a8a-7f00-46db-915a-2122965df7d9/fu_freelancinginamericareport_v3-rgb.pdf).

<sup>3</sup> RAKESH KOCHHAR ET AL., THREE-IN-TEN U.S. JOBS ARE HELD BY THE SELF-EMPLOYED AND THE WORKERS THEY HIRE, HIRING MORE PREVALENT AMONG SELF-EMPLOYED ASIANS, WHITES AND MEN 6 (Pew Research Center, 2015) available at [http://www.pewsocialtrends.org/files/2015/10/2015-10-22\\_self-employed\\_final.pdf](http://www.pewsocialtrends.org/files/2015/10/2015-10-22_self-employed_final.pdf).

<sup>4</sup> U.S. GOVERNMENT ACCOUNTABILITY OFFICE, SIZE, CHARACTERISTICS, EARNINGS, AND BENEFITS, GAO-15-168R 67 (2015) available at <http://gao.gov/products/GAO-15-168R>.

<sup>5</sup> *Id.* at 68.

<sup>6</sup> FREELANCING IN AMERICA: A NATIONAL SURVEY OF THE NEW WORKFORCE 4 (Elance-oDesk and Freelancers Union, 2014) available at [http://fu-web-storage-prod.s3.amazonaws.com/content/filer\\_public/c2/06/c2065a8a-7f00-46db-915a-2122965df7d9/fu\\_freelancinginamericareport\\_v3-rgb.pdf](http://fu-web-storage-prod.s3.amazonaws.com/content/filer_public/c2/06/c2065a8a-7f00-46db-915a-2122965df7d9/fu_freelancinginamericareport_v3-rgb.pdf).

<sup>7</sup> *Id.* at 3.

<sup>8</sup> *Id.* at 3.

<sup>9</sup> JOHN HUSING, OWNER-OPERATOR DRIVER COMPENSATION 8, 14 (The California Trucking Association and Inland Empire Economic Partnership 2015) available at <http://web.caltrux.org/external/wcpages/wcwebcontent/webcontentpage.aspx?contentid=309>.

<sup>10</sup> CATHERINE RUCKELSHAUS ET AL, WHO'S THE BOSS: RESTORING ACCOUNTABILITY FOR LABOR STANDARDS IN OUTSOURCED WORK 1, 3 (National Employment Law Project 2014) available at <http://nelp.org/content/uploads/2015/02/Whos-the-Boss-Restoring-Accountability-Labor-Standards-Outsourced-Work-Report.pdf>.

<sup>11</sup> U.S. GOVERNMENT ACCOUNTABILITY OFFICE, SIZE, CHARACTERISTICS, EARNINGS, AND BENEFITS, GAO-15-168R 24 (2015) available at <http://gao.gov/products/GAO-15-168R>.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> FREELANCING IN AMERICA: A NATIONAL SURVEY OF THE NEW WORKFORCE 7 (Elance-oDesk and Freelancers Union, 2014) available at [http://fu-web-storage-prod.s3.amazonaws.com/content/filer\\_public/c2/06/c2065a8a-7f00-46db-915a-2122965df7d9/fu\\_freelancinginamericareport\\_v3-rgb.pdf](http://fu-web-storage-prod.s3.amazonaws.com/content/filer_public/c2/06/c2065a8a-7f00-46db-915a-2122965df7d9/fu_freelancinginamericareport_v3-rgb.pdf).

<sup>15</sup> David Weil, *Employee or Independent Contractor*, U.S. DEPARTMENT OF LABOR BLOG (July 15, 2015), <http://blog.dol.gov/2015/07/15/employee-or-independent-contractor/>.

<sup>16</sup> RAKESH KOCHHAR ET AL., THREE-IN-TEN U.S. JOBS ARE HELD BY THE SELF-EMPLOYED AND THE WORKERS THEY HIRE, HIRING MORE PREVALENT AMONG SELF-EMPLOYED ASIANS, WHITES AND MEN 5 (Pew Research Center, 2015) available at [http://www.pewsocialtrends.org/files/2015/10/2015-10-22\\_self-employed\\_final.pdf](http://www.pewsocialtrends.org/files/2015/10/2015-10-22_self-employed_final.pdf).

<sup>17</sup> *Id.*

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<sup>18</sup> FREELANCING IN AMERICA: A NATIONAL SURVEY OF THE NEW WORKFORCE 4 (Elance-oDesk and Freelancers Union, 2014) available at [http://fu-web-storage-prod.s3.amazonaws.com/content/filer\\_public/c2/06/c2065a8a-7f00-46db-915a-2122965df7d9/fu\\_freelancinginamericareport\\_v3-rgb.pdf](http://fu-web-storage-prod.s3.amazonaws.com/content/filer_public/c2/06/c2065a8a-7f00-46db-915a-2122965df7d9/fu_freelancinginamericareport_v3-rgb.pdf).

<sup>19</sup> JEFFREY A. EISENACH, THE ROLE OF INDEPENDENT CONTRACTORS IN THE U.S. ECONOMY 37 (2010), available at <http://www.iecoalition.org/wp-content/uploads/2014/07/Role-of-Independent-Contractors-December-2010-Final.pdf>.

<sup>20</sup> *See Id.* at 40-41.