

## **EMPLOYEE VS. INDEPENDENT CONTRACTOR**

### **Employee:**

- (1) federal income tax withholding:**  
10% to 39.6% tax: withheld from paycheck; employer remits to U.S. Treasury  
IRS Form W-2: employee and IRS get copies from employer
- (2) state income taxes (2017 rates):**
  - Delaware:** 2.2% > \$2,000 to 6.6% > \$60,000 of DE. wages
  - Pennsylvania:** 3.07% flat rate on all income and wages
  - New York:** 4.0% > \$0 reaching 8.82% > \$1,029,250
  - New Jersey:** 1.4% > \$0 reaching 8.97% > \$500,000
- (3) City wage taxes (2017 rates):**
  - Wilmington:** 1.25% on earned income
  - Philadelphia:** 3.89% flat rate on wages (residents)
  - New York:** 2.907% to 3.876%
- (4) Employment taxes:**
  - Social Security:** 6.20% employee; 6.20% employer = 12.4% total to "annual wage base" = \$127,200 in 2017 (\$7,886 maximum)
  - Medicare:** 1.45% employee; 1.45% employer = 2.9% total no limit on annual wages
  - workers compensation insurance:** employer pays to state
- (5) Benefits:** not required, but no discrimination (based on income)
- (6) Federal Employment Law:**
  - no discrimination based on sex, race, ethnic origin, age
  - minimum wage: \$7.25 per hour since 2009
  - state minimum wage may be higher in 2017:  
e.g., \$8.25 in DE, \$10.50 in California, \$11.00 in Massachusetts
  - Family & Medical Leave Act of 1993: 12 weeks unpaid leave
  - Fair Labor Standards Act 1938: overtime to hourly employees

### **Independent Contractor:**

- (1) federal income tax:**
  - quarterly estimated taxes on IRS Form 1040-ES
  - principal files IRS Form 1099-MISC
  - taxed on profit (loss) from business based on type of entity
  - reports net profits on IRS Schedule C; picked up on IRS Form 1040
- (2) state income taxes:**
  - taxed on profit (loss) from business based on type of entity
- (3) city net profits taxes:**
  - taxed on profit (loss) from business based on type of entity
- (4) Employment taxes:**
  - depends on type of entity
- (5) Benefits:** none; must buy own (deductible by business)