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NEW STUDY: Up to 2.1 Million Construction Workers Are Illegally Misclassified by their Employers

With DOL Independent Contractor rule imminent, report is the first ever state-by-state breakdown of how many workers are being shortchanged by their employers

NEW POLLING: *Americans of all backgrounds are concerned about misclassification*

Washington, D.C.—The Century Foundation (TCF) today released a first-of-its-kind report on how many construction workers are being misclassified or paid off the books, costing taxpayers and workers billions of dollars in lost revenue, wages, and benefits. The TCF study **estimates that nationwide, between 1.1 and 2.1 million construction workers were misclassified or paid off the books in 2021**. This represents between 10 percent and 19 percent of the construction industry’s workforce.

The study comes just weeks before the U.S. Department of Labor is expected to release its final rule that will **realign the definitions of employee and independent contractor** back into compliance with decades of Supreme Court and federal court decisions, effectively reversing a Trump-era change. Employers have a legal obligation to provide various benefits and protections to their employees and pay certain taxes on their behalf. But when employers misclassify workers as independent contractors, they can significantly cut their labor costs because they avoid those obligations. Workers misclassified as independent contractors are generally not protected by laws against sex, race, and age discrimination or sexual harassment.

“The construction industry is awash in worker misclassification, a practice that hurts workers, honest employers, and local governments alike,” said **TCF Fellow and co-author of the report Laura Valle-Gutierrez**. “Misclassification denies construction workers their legal rights and shortchanges these workers by \$12 billion a year in lost wages and benefits nationwide. Misclassification also puts law-abiding employers at a significant cost disadvantage and amounts to tax fraud by corporations that skirt the law.”

The report finds that employers that misclassify workers cheat their workers by more than \$12 billion a year from a combination of underpaying them on wages and shortchanging them on contributions for legally required benefits. Moreover, misclassification costs the nation’s taxpayers between **\$5 and \$10 billion** per year. The TCF study reveals that rates of misclassification in the construction industry are highest in Vermont, followed by Washington, D.C., Connecticut, Mississippi, Arkansas, and Georgia. In the report, TCF researchers emphasize that their estimates “possibly—if not likely—*undercount* the extent of worker misclassification in the construction industry.”

“I have felt firsthand how misclassification has hurt the working class,” said **Jair Rodriguez, a member of the United Brotherhood of Carpenters (UBC) from Central Islip, New York.** “Cheating contractors being able to pay less than the area standards and paying cash have been hurting me and my family, by me having to pay higher taxes and taking away good union jobs from those who are highly skilled, work safely and efficiently, and pay their taxes.”

A [new survey of 2,200+ adults done by TCF and Morning Consult](#) found that **three in five Americans** — including **75% of independent contractors** — think that contractors are undercompensated when considering the full range of benefits offered to employees. A plurality of adults express **deep concern** that employers that misclassify workers avoid paying their fair share of taxes; skirt requirements to provide legal protections to employees; and benefit from an unfair cost advantage over honest, law-abiding employers. Lastly, more than two-thirds of Democrats (**69 percent**) and a majority of Republicans (**56 percent**) say they would be more likely to vote for a candidate with a plan to address worker misclassification.

“Misclassification is an intentional decision by employers to deprive workers of fair wages, benefits, and protections. No industry is immune from corruption, abuse, and illegal labor practices,” said **Connecticut Attorney General William Tong.** “This important report underscores what we hear from workers every day—misclassification, wage theft, and worker exploitation is a serious problem in the construction industry here in Connecticut and across the nation. It is one of the reasons we expanded our Connecticut False Claims Act earlier this year, and why I have joined with attorneys general across the country calling for strong, unambiguous federal labor laws and robust enforcement.”

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The Century Foundation (TCF) is a progressive, independent think tank that conducts research, develops solutions, and drives policy change to make people’s lives better. We pursue economic, racial, gender, and disability equity in education, health care, and work, and promote U.S. foreign policy that fosters international cooperation, peace, and security. TCF is based in New York, with an office in Washington, D.C. Follow the organization on Twitter at [@TCFdotorg](#) and learn more at www.tcf.org.