

# Understanding of Employee Protections



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Workers who meet the legal definition of employees receive statutory protections such as minimum wage, overtime pay, and Unemployment Insurance coverage. Workers defined as self-employed forgo these protections as well as other employer-provided benefits such as health insurance and retirement plans. In order for workers to make informed choices between employment and self-employment, they need to understand how those rights and benefits vary with classification (i.e., employee vs. self-employed). A recent Abt Associates survey of 8,503 workers explored the extent to which workers understand those rights—and found a moderate level of confusion.

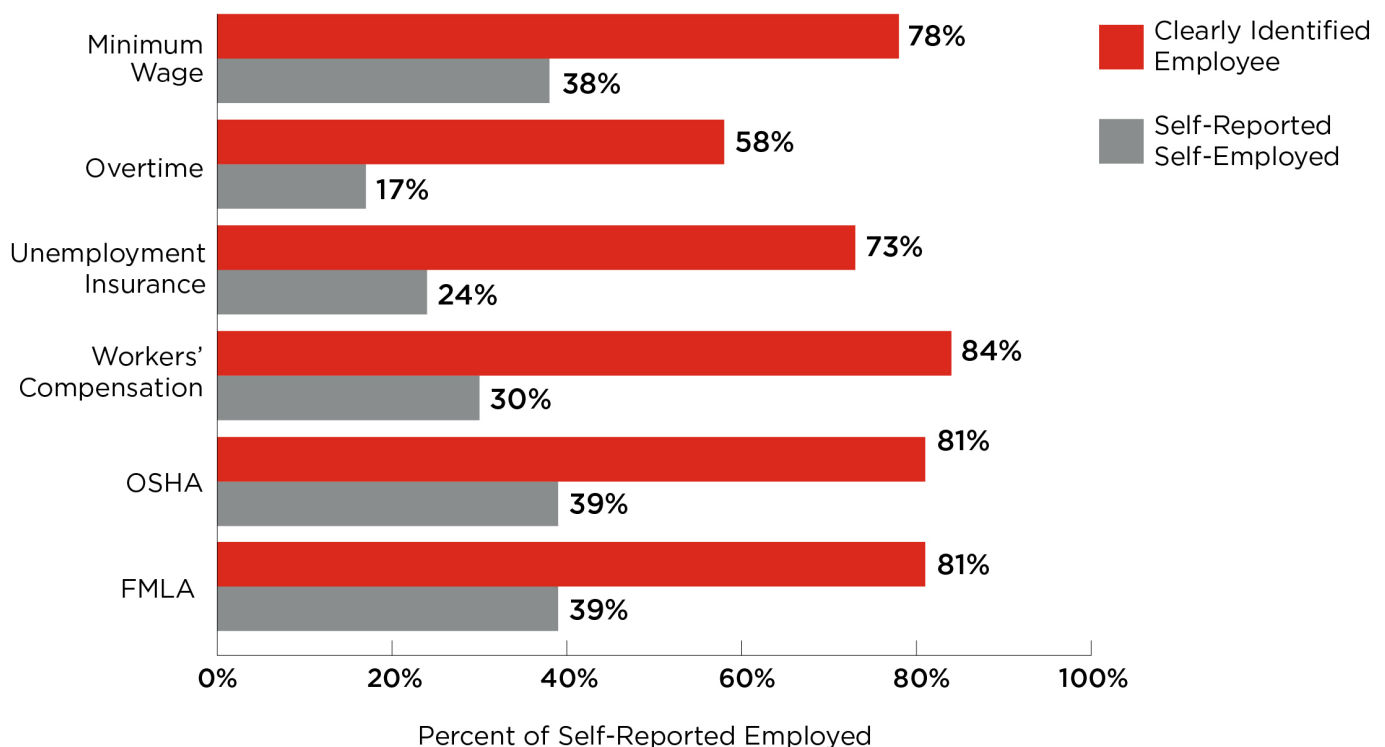
The survey asked workers for their (1) work status (employee or self-employed) and (2) what earnings documentation for tax purposes they receive from their main job (W-2 or 1099-MISC).

It then asked for which of six protections they were eligible: minimum wage (MW), overtime (OT), Unemployment Insurance (UI), Workers’ Compensation (WC), Occupational Safety and Health (OSHA), and Family and Medical Leave Act (FMLA).

Exhibit 1 presents the results of knowledge of six specific rights and benefits for two group:

1. Clearly Identified Employee (CIE); that is, workers who self-report that they are an employee and that they receive the appropriate tax form—a W-2.
2. Self-Reported Self-Employed (SRSE); that is, workers who self-report that they are self-employed, regardless of which tax form they receive.

**Exhibit 1: Self-Reported Coverage for Various Self-Reported Classifications**



*Note: CIE/Clearly Identified Employee (i.e., self-reports as an employee and reports receiving a W-2, but not a 1099-MISC) SRSE/Self-Reported Self-Employed (i.e., regardless of W-2 and 1099-MISC)*

**Clearly Identified Employee.** While exceptions exist, most employees should answer that they *are* covered by or eligible for each of these rights and benefits.<sup>1</sup> The survey confirmed this base level of understanding; most (but far from all) CIEs report they are covered. In results not reported here, most CIEs who report not being covered offer plausible reasons (e.g., being exempt).

**Self-Reported Self-Employed.** In almost all cases, the truly self-employed should answer that they are *not* protected by the six rights. However, a large percentage of SRSEs also report being covered: Nearly two in five for minimum wage (38 percent), OSHA (39 percent), and FMLA (39 percent); slightly fewer for overtime (17 percent), Unemployment Insurance (24 percent), and Workers' Compensation (30 percent).

Given this level of misunderstanding, workers will have trouble making informed decisions about the choice between employment and self-employment. Continuing and intensifying efforts to inform workers about the potential loss of workplace rights and benefits that may accompany a switch to self-employment status might help.

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<sup>1</sup> Exempt employees are not subject to the minimum wage or overtime; part-time, short-tenure employees and those working for small firms are not covered by the Family and Medical Leave Act.



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*Under contract to the U.S. Department of Labor, Abt Associates conducted a survey 8,503 workers to collect information on workers' knowledge about their current job classification and the rights and benefits associated with that classification.*

For more information, see: Daley, Kelly, Jacob Klerman, Mehera Baugher, Lauren Dunton, Utsav Kattel, and Andrew Burkey. (2016). "Worker Classification Knowledge Survey: Volume I - Technical Report." Cambridge, MA: Abt Associates.