fiverr enterprise.

Simplifying Freelancer *Tax Management*

Your Agency's Guide to
Freelance Tax & Compliance

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CHAPTER 1

Managing Freelancer Tax & Compliance *has its Own Unique Challenges*

For agencies, managing freelancers is all part of a day's work. In order to effectively serve many clients, and address talent and skills gaps quickly, freelancers are the perfect fit.

As time to fill for W2 employees is now as long as 11 weeks for a new employee (up from 7 weeks in 2021[1]), freelancers are a great alternative for filling emergent needs. Independent contractors have niche expertise, and are experienced in hitting the ground running with new clients and getting up to speed quickly. They can also be brought on for a specific project, and won't cost agencies in headcount when their skills aren't necessary.

> 62% of agencies have reduced costs by hiring freelancers

However, that doesn't mean there aren't challenges involved in working with freelance talent.

When you onboard a new freelancer quickly, compliance may not be top of mind, and it can be easy to skip essential steps that will be critical when filing season rolls around. Many agencies are under the misconception that because independent contractors file and pay their own taxes, their agency doesn't have any part to play. Although it's true that you don't need to withhold taxes from freelancers, (and psst: 62% call reduced costs a major benefit of hiring freelancers when compared with hiring employees[2]) there are still responsibilities you need to be on top of.

Even with the best will in the world, handling all of the paperwork and documentation related to independent contractors can become a huge administrative headache for agency staff and operations managers.

1 Robert Half: State of US Hiring, 2023.

2 Remote: Global Freelancer Report, 2023.

CHAPTER 2

The Importance of
Smart Freelancer Tax
Management

To reduce the administrative burden, and streamline freelancer operational processes, agencies should make it a priority to implement compliance and tax management processes. This makes sure that an agency doesn't miss any steps in remaining compliant with all relevant laws and regulations.

In the U.S. there are federal, state and local tax laws to be aware of, and understanding freelancers' tax requirements ahead of time ensures that agencies are not hit with unexpected penalties or fines.

As misclassification is one of the main challenges when working with freelancers, your first step is to accurately classify your freelancers. If an agency misclassifies a worker as an independent contractor, when in fact they should be an employee, this can have financial and legal consequences for the business, even if it was done inadvertently. Agencies can end up owing back taxes, paying fines to the IRS, and even facing lawsuits from workers looking to recover employment benefits.

Effective tax and compliance management is not just about misclassification. It's also useful for financial planning. If agencies understand their potential tax liabilities, they can more accurately ascertain project costs ahead of time, helping them to avoid unexpected line items that impact the bottom line.

Tax management is also an important part of risk management more widely. Smart agencies will implement onboarding workflows that include the signing of contracts, collection of all relevant documentation, and the establishment of clear terms for both parties. This is great for the business, and also fantastic for nurturing strong freelancer relationships. When your freelancers see that you have intelligent processes in place to support them with their tax and compliance obligations, they are more likely to see you as a preferred agency to work with.

Understanding the Basics of *Independent Contractor Taxes*

W9, 1099, W2, NEC... it can feel like there are a whole lot of acronyms and numbers to understand when you're working with freelancers. Let's break it down with everything you need to know.

1099 Employees vs W2

It's not up to you as an agency to decide whether your workers are freelancers or employees. The IRS has specific guidelines for who can be considered a 1099-employee (also known as an independent contractor). 1099-employees take responsibility over their own business, and so your agency doesn't need to withhold taxes, pay social benefits, or offer certain legal protections such as overtime or sick pay.

The IRS will consider three "common law" elements when deciding whether your worker is a W2 or a 1099-employee. These are related to how much control the worker has over their employment.

- **Behavior:** Who decides what work the person completes, and the way that they complete that work? This could be related to the tools the individual uses, the hours they work, or the location they work from.

- **Finances:** Who chooses how much the worker is paid, and the payment terms? Does the agency buy supplies such as software licenses or office equipment? Are expenses reimbursed?

- **Relationship:** Is the worker being given social benefits such as paid time off or a pension plan? Does the worker have other clients, and is the type of work project based, or open-ended?

Generally speaking, your worker is a W2 employee if you are in control over decisions such as where and how they work, and how much they are paid. You may also be entering employee territory if your worker solely works for your agency, or has a long-term arrangement with you that isn't project-based.

There are a few known tests that agencies can use to ascertain whether an employee should be W2 or 1099. One of the most famous is the ABC test, known to be the strictest worker classification test in the U.S. As used in California, independent contractors must meet all three factors in order to be classified as 1099.[3]

The factors for naming someone 1099 are:
- The agency doesn't control what the worker does.
- The worker performs tasks outside of the agency's main business.
- The worker has their own independently established trade or company.

There are other tests that can be used, such as the IRS 20-factor Test[4], the Economic Realities Test used by the Department of Labor[5], and the Borello test.[6]

If you are unsure whether an agency worker is a W2-employee or an independent contractor, you can use form SS-8, which asks the IRS to determine the status of a worker on your behalf. Of course, each freelancer situation is different, so you may end up sending out a lot of forms unless you work out an internal method of classification and onboarding![7]

What are W8 and W9 Forms, and Who Needs Them?

Once you've established that you are compliantly working with freelancers, it's imperative to make sure that you provide the right tax documentation. If your freelancer is a U.S. citizen, living and working from inside the U.S., you will ask them to fill out a W9 form. You don't submit this form to the IRS, but it helps you collect relevant information that you'll need when filing season rolls around.

If your freelancer is not a U.S. citizen, or they are currently living outside of the U.S., you'll need to familiarize yourself with the W8 series of forms. Non-U.S. tax residents will use W8 forms to prove they have a foreign status, and take advantage of tax treaties. Here's what the W8 series are called, and what each is used for:

- **W8 BEN:** This is for foreign individuals. They are usually subject to a tax rate of 30% on their income from a U.S. agency. However, if they live in a country with a tax treaty with the U.S., this may be reduced or even eliminated.

- **W8 BEN-E:** The same as form W8 BEN, but for foreign entities rather than individuals. If your freelancers have a business, this is the right form for them to fill out.

- **W8 ECI:** If your freelancers are foreign individuals that receive income from US-based payers and their work is in the U.S., this is considered connected income by the IRS. That means it's taxed at the same rate as resident aliens and U.S. citizens.

- **W8 EXP:** This form is only used by entities such as foundations, tax-exempt organizations and foreign governments, and allows them to claim an exemption or a reduction on tax withholdings.

- **W8 IMY:** Used by foreign companies or organizations, this certifies that an individual or a business has received tax-withholding income. By filling out the W8 IMY form, the foreign entity provides information about its structure, country of residence, and eligibility for tax treaty benefits.

Like the W9 form, these W8 forms are all used to help gather information about independent workers to help fill out 1099 forms. Your freelancers should be providing you with these forms as part of their onboarding process.

[3] ABC Test ruling, California.
[4] IRS 20-factor Test
[5] Economic Realities Test, DOL.
[6] Borello Test
[7] Form SS-8, Internal Revenue Service

Various 1099 Forms for Independent Contractors

Agencies are required to submit 1099 forms for all individuals that were paid $600 or more in the previous tax year. That means if you paid a freelancer $599, you won't need to submit a form, but a dollar more, and you have a responsibility to file. The form you need to use is 1099-NEC. This is specifically for reporting compensation for services from non-employees.

Note: If you withheld federal income tax on any payment, even if it's under $600, you'll need to file Form 1099-NEC as well.

In some cases, you'll also need to file Form 1099-MISC. This is for miscellaneous income that included prizes and awards, medical and healthcare payments, rents, payments to an attorney, and some interesting specific use cases such as purchasing fish or an item from anyone who works in the business of aquatic life. This may not seem particularly relevant, but consider if you have engaged legal services from a freelance business, or if you paid a bonus to any freelancer outside of their regular workload.

Another 1099 form which may be relevant is Form 1099-K. This is used if payments of more than $600 in total are made via a third-party payment processor, such as PayPal or Bill.com. Don't forget to fill out a 1096, which summarizes all the 1099s that you've completed in that tax year. [8]

When Do I Need to Provide 1099 Forms?

The IRS will usually expect forms to be filed by January 31st, and if your agency has more than 10 forms to file, then e-filing is now mandatory. The payee will also need their own copy, and in some cases, your state may require you to file separately with them, too.

If you're late out the gate with your filing, you may incur penalties, especially if you're working with a lot of independent contractors. In 2024, the cost of late filing can be anywhere from $60 to $310 for each form, and if the IRS considers you to be a repeat offender or purposefully evading the mountain of paperwork, this number can jump to $630 per form, with no maximum penalty. Oh, and don't forget that the IRS charges interest.

CHAPTER 4

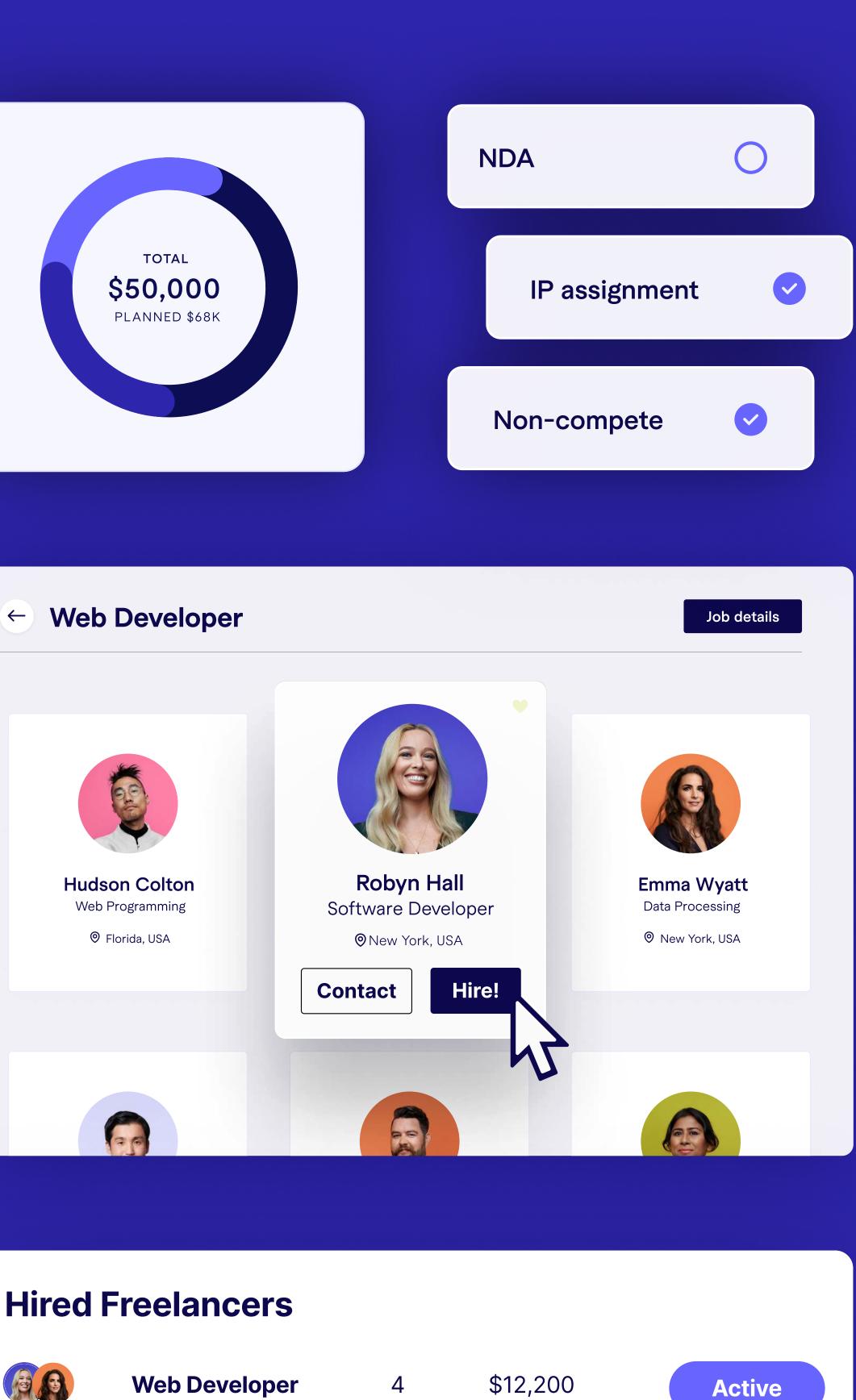# Let Fiverr Enterprise *Take the Wheel for Tax & Compliance*

As an agency, managing freelancers' tax and compliance obligations can quickly mount up. That's where **Fiverr Enterprise** comes in. Our freelance management system (FMS) automates and streamlines each stage of the tax and compliance process when working with freelance talent.
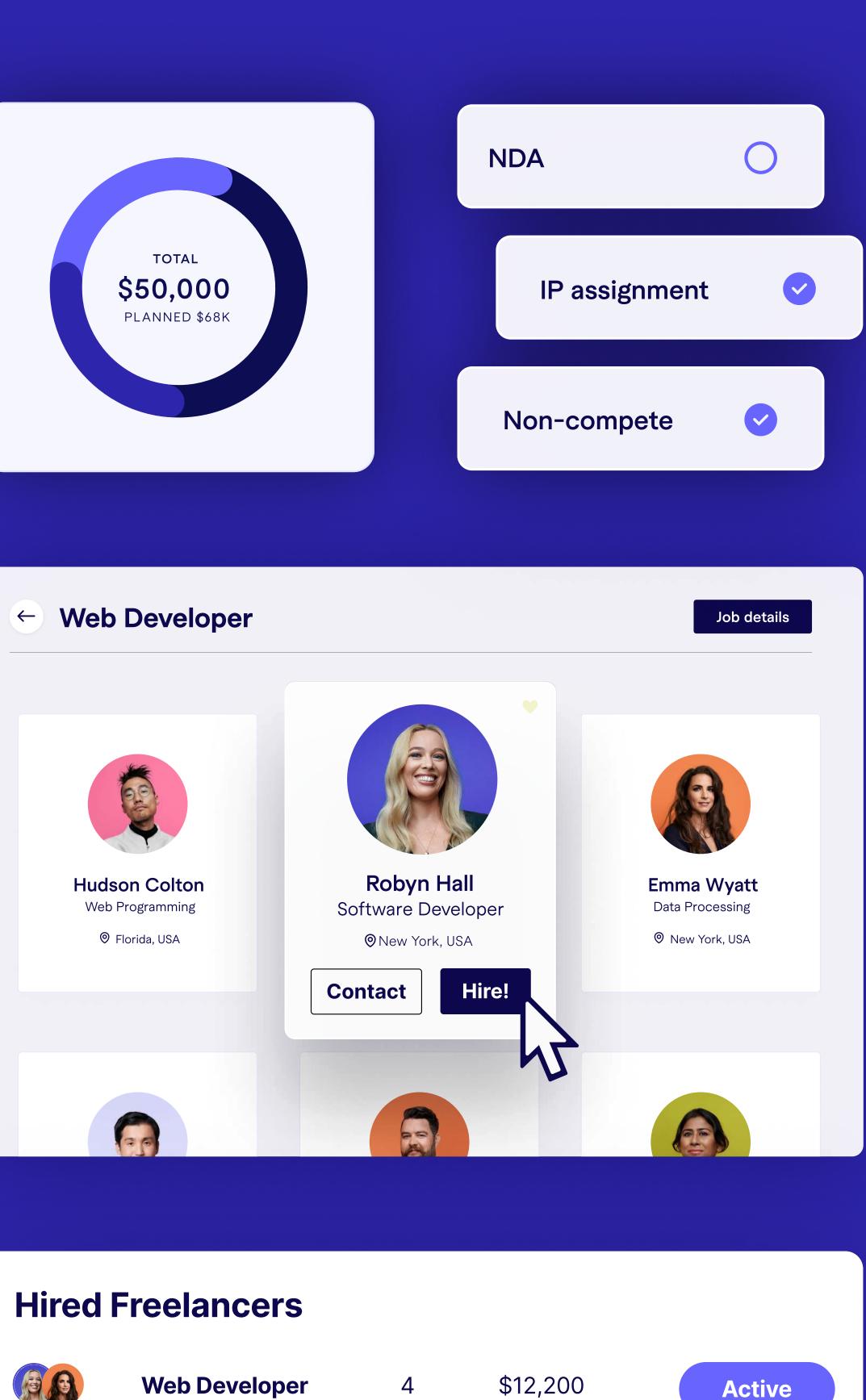
We handle every legal hurdle on your behalf, from NDAs and IP agreements, to W9s, 1099s and beyond. The platform mitigates risk by highlighting your blind spots or pointing out where potential issues may be, while reducing the administrative overhead of getting the staff you need, exactly when you need them.

Rather than getting buried under operational overhead, spending hours chasing the right documentation or staying up at night worrying about misclassification, your agency can simply pick the right candidate who has the right skills, and leave tax and compliance to us.

This dramatically speeds up your time to hire and also relieves the burden of masses of paperwork and administrative effort, allowing your agency staff to focus on the core business.

TOTAL
$50,000
PLANNED $68K

NDA ◯

IP assignment ✓

Non-compete ✓

← **Web Developer**   Job details

Hudson Colton
Web Programming
📍 Florida, USA

Robyn Hall
Software Developer
📍 New York, USA

Contact   **Hire!**

Emma Wyatt
Data Processing
📍 New York, USA

Hired Freelancers

	Web Developer	4	$12,200	Active
	Graphic Designer	3	$10,500	Active

The magic happens in 3 easy steps:

1. Legal Documentation Made Easy

Your own Legal team decides what documents your freelancers need to sign, and these are automatically sent via DocuSign. For example, those who need system access might be asked to sign an NDA, or those with a foreign entity will be sent W8 BEN-E. Fiverr Enterprise then validates signatures and stores documents securely, sending you an alert when documentation is set to expire.

2. Your Liability Becomes Our Liability

Even when you invest time and effort, how can you be sure that you're compliantly managing such a large amount of freelance talent? Fiverr Enterprise takes care of the process, ensuring freelancers are classified accurately, gathering the right information with an automated onboarding workflow, and even submitting the right 1099 forms on your behalf. By outsourcing compliance and tax readiness, you reduce risk when working with an external freelance workforce, and reduce those administrative headaches down to zero.

3. Automated Workforce Classification

Collect and manage all the information relating to your freelance workforce in a single place, and benefit from intelligent AI that analyzes your relationships and flags any weak spots. Based on thousands of previous classification cases, the AI identifies high-risk relationships, runs an automated audit, and then generates a detailed report with suggestions for eliminating that risk.

No more blind spots, and no more worrying about tax requirements or compliance risk.

STEP 1
Legal Documentation Made Easy

STEP 2
Your Liability Becomes Our Liability

STEP 3
Automated Workforce Classification

About Fiverr Enterprise

Fiverr Enterprise is a freelance management system (FMS) that gives you complete visibility and control over the hiring, onboarding, management, payments, and compliance processes of your freelance workforce.

Our SaaS solution gets rid of the financial, admin, and legal headaches of working with independent contractors and freelancers, so you can get more done and focus on maximizing business performance.

Hire and onboard freelance talent in less than 72 hours, with full compliance, tax documentation, and system access covered, making Legal and IT your new best friends.

Want to personalized demo of the Fiverr Enterprise platform?
Talk to one of our workforce experts today!

Book a Demo