

**The Substantial Fiscal Costs of
Employer Fraud in the New York City
Construction Industry**

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May 2017

Introduction

The New York City construction industry is in the midst of a record-setting run with an estimated 26 percent increase in the value of construction in 2016. Payroll employment in the city's construction industry is estimated to have surpassed 140,000 in 2016, up by 30 percent in the past five years. Each of the three main sources of construction demand—residential, non-residential and government—is contributing to a sustained, multi-year surge in activity.¹ However, this construction boom is marked by evidence of the extensive incidence of fraudulent employer practices.

Annual reports from New York State's Joint Enforcement Task Force on Employee Misclassification highlight that the construction industry has some of the highest incidence of employee misclassification, a practice followed by employers to attempt to skirt responsibility for unemployment insurance and workers' compensation premiums.² In 2014, a report for a Manhattan Grand Jury of the State Supreme Court examined the growing incidence of workers' comp premium fraud in the New York City construction industry, noting that the costs reached into the hundreds of millions.³

Despite improvement in recent years in New York's labor law enforcement, employment fraud continues to be a major problem in the New York City construction industry. This report estimates the extent of employer fraud and its associated fiscal costs, costs that are substantial and are borne by workers, taxpayers, and law-abiding construction employers.

Highlights

- In 2015, there were an estimated 165,900 trades workers in the New York City construction industry, excluding managerial, professional and administrative employees not directly engaged in construction work.
 - This number is more than 70 percent greater than the estimated number of trades workers (96,800) counted in the payroll data from state administrative records for the unemployment insurance system.
- The difference—69,100—likely represents the extent of the misclassification of workers as independent contractors or those paid off the books by their employers in New York City construction in 2015.
 - This number represents an alarming 42 percent of all construction trades workers.
- This estimate of the extent of worker misclassification in construction is informed by Census Bureau data that show over 60,000 New York City “nonemployers” in construction in 2014. This data series is based on workers whose pay is reported to the

¹ See, e.g., New York Building Congress, “New York City Construction Spending and Employment Surge into Record Territory,” Press Release, October 25, 2016.

² See, e.g., *Annual Report of the Joint Enforcement Task Force on Employee Misclassification to Honorable Andrew M. Cuomo, Governor, State of New York*, Feb. 1, 2015.

³ *Report of the Grand Jury of the Supreme Court, State of New York, First Judicial District, Issued Pursuant to Criminal Procedure Law Section 190.85 Subdivision (1, c)*, Cyrus R. Vance, Jr. District Attorney, New York County, March 25, 2014.

IRS on 1099 forms rather than on W-2 forms received by payroll employees. For all intents and purposes, according to state law, nonemployers in construction are workers who are misclassified as independent contractors.

- The reported number of nonemployers in New York City construction increased by 45 percent between 2005 and 2014, far greater than the 13 percent payroll employment increase over the same period.
 - Much of the increase in nonemployers over this period occurred in residential and related specialty trades (electrical, plumbing, and building finishing) construction.
 - Likely reflecting the growing exploitation of this workforce, the average pay per nonemployer fell by 27 percent between 2005 and 2014.
- Based on the 69,100 estimated number of workers misclassified or paid off the books, the lost payroll taxes and social insurance premiums that are not collected by the state and federal governments amounts to \$484 million per year.
 - This figure includes \$275 million in unpaid workers compensation premiums, \$44 million in unemployment insurance taxes, and \$163 million in social security and Medicare payroll taxes. The \$484 million estimate assumes that half (28,150) of those misclassified as independent contractors are paying their own payroll taxes (but not social insurance premiums.)
 - Only a little over half (54 percent) of New York City construction trades workers have private health insurance according to the 2015 American Community Survey. While all union construction workers have employer-paid health insurance, 14 percent of all construction workers have Medicaid coverage and nearly one-third (32 percent, or 52,000) lack any health insurance coverage.
 - Construction is dangerous work and there is a high incidence of injury (and fatal accidents) on construction sites, particularly among non-union workers who receive far less safety training than unionized workers. Uninsured injured workers seek uncompensated health care mainly in the City's public hospitals.
 - While the publicly-borne costs of Medicaid and uncompensated health care are related to the lack of employer-provided health insurance and not misclassification per se, these costs are estimated at \$143 million annually.
 - For the 41,000 construction workers who are either misclassified as independent contractors and not paying taxes and those who are paid in cash off the books entirely, it is estimated that their unpaid city, state and federal income taxes total \$134 million.
 - Of this \$134 million, \$56 million is for New York City and State income taxes.
 - Combining these three categories of fiscal costs—payroll taxes and social insurance premiums, Medicaid and uncompensated health care, and personal income taxes—fraudulent New York City construction employer practices, and the cost of not providing employer health insurance, totalled an estimated \$761 million in 2015.
 - Of this total, \$468 million was borne by New York State and New York City taxpayers and law-abiding employers.

Figure 1: NYC construction, payroll employment levels based on unemployment insurance administrative data

Year	Average Payroll Employment	Reporting Units	Total Wages (\$millions)	Average Wages (current dollars)	Average Wages (2016 dollars)	Pct. ch. in ann. real avg. wage
2000	117,189	10,875	\$6,112.5	\$52,160	\$75,272	
2001	117,799	10,942	\$6,521.3	\$55,359	\$77,924	3.5%
2002	111,386	10,798	\$6,247.1	\$56,085	\$76,971	-1.2%
2003	108,846	10,748	\$6,268.9	\$57,594	\$76,685	-0.4%
2004	108,086	10,976	\$6,181.8	\$57,193	\$73,548	-4.1%
2005	110,004	11,242	\$6,414.7	\$58,314	\$72,204	-1.8%
2006	114,595	12,091	\$6,998.6	\$61,073	\$72,879	0.9%
2007	124,278	12,543	\$8,072.7	\$64,957	\$75,383	3.4%
2008	128,612	13,112	\$8,785.5	\$68,310	\$76,301	1.2%
2009	117,110	12,731	\$8,115.7	\$69,300	\$77,066	1.0%
2010	108,973	12,449	\$7,590.0	\$69,650	\$76,157	-1.2%
2011	107,829	12,133	\$7,677.2	\$71,198	\$75,695	-0.6%
2012	111,666	12,153	\$8,018.4	\$71,807	\$74,871	-1.1%
2013	117,610	12,479	\$8,579.6	\$72,950	\$74,805	-0.1%
2014	124,291	12,576	\$9,206.8	\$74,075	\$74,967	0.2%
2015	134,116	13,057	\$10,207.2	\$76,107	\$76,927	2.6%
2016 *	140,261	13,227	\$11,499.5	\$80,905	\$80,905	5.2%
2000-2008	9.7%	20.6%	43.7%	31.0%	1.4%	0.17%
2008-2011	-16.2%	-7.5%	-12.6%	4.2%	-0.8%	-0.27%
2011-2016	30.1%	9.0%	49.8%	13.6%	6.9%	1.34%

* 2016 annual averages estimated based on change for first three quarters over prior year.

Payroll employment information--by place of work--based on quarterly reports from employers covered under New York State's Unemployment Insurance Law.

Source: Quarterly Census of Employment and Wages.

Payroll employment in New York City construction has grown by 30 percent since a low point in 2011 following the 2008-09 recession. Inflation-adjusted wages reported to the state started to improve in 2015, but have risen by less than seven percent over the past five years.

Payroll employment data reported to the state in connection with the payment of Unemployment Insurance payroll taxes is the most reliable measure of construction industry employment that is compliant with state requirements for Unemployment Insurance and Workers' Compensation coverage. This payroll data is known as the Quarterly Census of Employment and Wages (QCEW), and it covers both construction trades and non-trades workers.

An annual survey of households conducted by the U.S. Census Bureau (the American Community survey, ACS) indicates that 238,300 persons worked in the construction industry in New York City in 2015, much higher than the 134,116 figure reported by the 2015 QCEW data. Both data series include commuters as well as residents. The reason the ACS series is much higher is that it includes those who are misclassified as independent contractors or paid off the books by construction employers, as well as some construction workers who are self-employed and incorporated as a business (i.e., legitimately independent contractors).

Figure 2: Estimates of NYC Construction Trades Workforce, by Category of Worker, 2015

Category of worker	Number of workers	Share of trades workforce	Hourly wage *
Construction employees (union and non-union)	96,800	58.3%	\$15.22-38.22
Misclassified independent contractors, paying own payroll taxes	28,150	17.0%	\$15.52
Misclassified independent contractors, not paying payroll taxes	28,150	17.0%	\$15.52
Off-the-books workers	12,800	7.7%	\$11.22
Total, all workers	165,900	100%	
<i>Subtotal of misclassified and off-the-books workers</i>	<i>69,100</i>	<i>42%</i>	

Note: This figure includes construction trades workers only; excluded are non-trades (managers, professionals and administrative workers) and incorporated self-employed. Misclassified workers and off-the-books workers are not union.

* Hourly wage rates are detailed in the notes to Appendix.

Source: Estimates by Author, May 2017.

In 2015, there were an estimated 165,900 trades workers in the city's construction industry (other than 6,200 trades workers identified as incorporated self-employed.) According to the ACS, 27.8 percent of construction employees are non-trades managers, administrative and other non-blue-collar employees. Applying this share to the QCEW payroll employment total would imply 96,800 trades workers reported on QCEW payrolls. The 165,900 ACS number is 71 percent greater than the QCEW 96,800 trades employment. The difference between these two figures (69,100) represents workers either misclassified as independent contractors or paid off the books by their employers in New York City's construction industry in 2015.

In the table above, we include 56,300 of the workers separately identified by the Census Bureau as "nonemployers" working in construction (see the next page) as trades workers. These 56,300 nonemployers are considered misclassified independent contractors. The "nonemployer" series is compiled based on 1099 forms submitted to the Internal Revenue Service. Based on IRS research, we estimate that roughly half of that number are filing tax returns and paying payroll taxes based on the receipts reported on 1099 forms. About 6,300, or 10 percent of the construction "nonemployers," are assumed to be non-trades employees.

Based on comparing the ACS, QCEW and nonemployer data, there are an estimated 12,800 construction workers who must be paid off the books since they are neither part of the QCEW data reported to the state, nor the nonemployers for whom 1099 forms are submitted to the Internal Revenue Service. This is likely a lower-bound estimate.

Figure 3: Rapid growth in the number of "nonemployers" in New York City construction over the past decade, but sharp decline in inflation-adjusted average receipts.

NAICS code	Description	2005			2014		
		Firms	Receipts (\$1,000)	Avg. receipts	Firms	Receipts (\$1,000)	Avg. receipts
23	Construction	41,884	\$1,590,263	\$37,968	60,767	\$1,693,432	\$27,868
236	Construction of buildings	11,660	\$514,208	\$44,100	17,065	\$577,344	\$33,832
2361	Residential building construction	9,767	\$426,012	\$43,617	14,703	\$475,821	\$32,362
2362	Nonresidential building construction	1,893	\$88,196	\$46,591	2,362	\$101,523	\$42,982
237	Heavy and civil engineering construction	648	\$28,383	\$43,801	525	\$15,689	\$29,883
2371	Utility system construction	102	\$2,365	\$23,191	138	\$3,115	\$22,572
2372	Land subdivision	96	\$6,576	\$68,498	22	\$891	\$40,506
23721	Land subdivision	96	\$6,576	\$68,498	22	\$891	\$40,506
2373	Highway, street, and bridge construction	97	\$2,683	\$27,657	89	\$1,496	\$16,808
23731	Highway, street, and bridge construction	97	\$2,683	\$27,657	89	\$1,496	\$16,808
2379	Other heavy and civil engineering construction	329	\$16,180	\$49,179	232	\$7,868	\$33,913
23799	Other heavy and civil engineering construction	329	\$16,180	\$49,179	232	\$7,868	\$33,913
238	Specialty trade contractors	29,576	\$1,047,671	\$35,423	43,177	\$1,100,399	\$25,486
2381	Foundation, structure, & building exterior contractors	3,244	\$115,166	\$35,501	4,814	\$94,969	\$19,728
2382	Building equipment contractors	4,059	\$156,162	\$38,473	7,276	\$195,658	\$26,891
23821	Electrical & other wiring installation contractors	1,833	\$59,743	\$32,593	3,391	\$77,419	\$22,831
23822	Plumbing, heating, & air-conditioning contractors	1,958	\$86,570	\$44,213	3,369	\$95,774	\$28,428
23829	Other building equipment contractors	228	\$9,315	\$40,855	516	\$22,465	\$43,537
2383	Building finishing contractors	14,708	\$449,548	\$30,565	18,419	\$454,565	\$24,679
2389	Other specialty trade contractors	7,565	\$326,795	\$43,198	12,668	\$355,207	\$28,040

Note: "Firms" are individual nonemployers; "receipts" are effectively labor payments. Receipts are expressed in 2015 constant dollars. Source: U.S. Census Bureau nonemployer statistics.

The Census Bureau compiles a data series for "Nonemployers" based on workers whose pay is reported to the Internal Revenue Service on 1099 forms (wages and salaries for employees are reported to the IRS on W-2 forms). Nonemployer data for 2014—the latest available—show 60,767 such workers for the New York City construction industry with total "receipts" of nearly \$1.7 billion. The 2014 number was 45 percent greater than the 2005 level, reflecting much faster growth than the 13 percent gain in QCEW employment over the same period.

It is striking that the total number of nonemployers in New York City construction is nearly half as large as the reported payroll employment according to the QCEW.

Reflecting the dramatic erosion in pay for these nonemployers over the past decade, average receipts fell by nearly 27 percent between 2005 and 2014, from nearly \$38,000 in 2005 (measured in 2015 constant dollars), to a little under \$28,000 in 2014.

For all intents and purposes, nonemployers in construction are workers who are misclassified as independent contractors. Under New York State law, it is presumed that construction trades workers are employees, and not legitimate independent contractors for whom it is permissible to pay on a 1099 basis. To be legitimately considered an independent contractor, an individual must be "free from control and direction in performing the job" and "performing services outside of the usual course of business for the company." Paying workers as "independent contractors" when those tests are not met rather than as employees is understood to be fraudulent activity intended to circumvent payment of UI and workers' compensation taxes, and as a way to negate most other long-established labor protections.

Fiscal Costs of Employer Fraud in New York City Construction

Misclassification of workers as independent contractors is a huge problem in New York City and particularly prevalent in the construction industry.

Governor Andrew Cuomo's second Executive Order in 2011 continued the state's Joint Enforcement Task Force on Employee Misclassification (JETF), originally established by Governor Eliot Spitzer in an Executive Order signed in September 2007. That order noted that "employee misclassification has a significant adverse impact on the residents, businesses and economy in New York State."

The most recent annual report of the JETF required under the Executive Order described the misclassification problem:

Misclassification occurs when an employee is incorrectly labelled an independent contractor, or is not reported by the employer in any capacity (i.e. "off the books"). This practice hurts the government which is deprived of substantial revenues due to non-payment of taxes and decreased legitimate business activity; hurts law abiding businesses which must compete with employers who engage in this illegal cost-cutting practice; and hurts employees by denying them the protection of various employment and labor laws by reducing compliance with employment and job safety standards.⁴

In 2014, enforcement efforts by the NYS Department of Labor and the JETF identified 143,000 misclassified workers and ordered the payment of nearly \$50 million in unemployment insurance premium payments that had been illegally evaded.⁵

The report includes a section on the construction industry, noting that "the construction industry has some of the highest incidents (sic) of employee misclassification. Therefore, the JETF has, and will continue to, focus attention on this industry. The inception of the Construction Industry Fair Play Act in August 2010 has assisted in refining the investigative process by creating a presumption of employment in the construction industry unless an employer can meet the ABC test."⁶ To quote the task force report, "Under the ABC Test, an individual is considered an employee unless he or she is free from direction and control in performing the job, AND the work that is performed is not part of the usual work done by the business that hired the individual, AND the individual has an independently established business."

⁴ *Annual Report of the Joint Enforcement Task Force on Employee Misclassification to Honorable Andrew M. Cuomo, Governor, State of New York*, Feb. 1, 2015, p.2.

⁵ *Ibid*, pp. 7-10.

⁶ *Ibid*, p. 9.

Figure 4: Lost Payroll Taxes and Social Insurance Premiums Due to NYC Construction Employer Non-Compliance

2017 Trades workers only Category	Number of workers	Lost payroll taxes and social insurance premiums, versus employers paying all payroll taxes and social insurance premiums	
		Per worker amount *	Total (dollars in millions)
Misclassified independent contractor, paying own payroll taxes	28,150	\$4,855	\$136.7
Misclassified independent contractor, not paying payroll taxes	28,150	\$9,224	\$259.6
Off-the-books worker	12,800	\$6,853	\$87.7
Total, all trades workers misclassified or paid off the books	69,100		\$484.0

* See Appendix for details.

Source: Estimates by Author, May 2017.

Using the estimate of 69,100 construction trades workers misclassified as independent contractors or paid off the books, estimates were made of the payroll taxes and social insurance (unemployment insurance and workers' compensation) premiums that are not being paid. (These estimates reflected assumptions about average hourly wages for each category of worker—see the Appendix for details.)

Based on an estimate by the IRS that about half (28,150) of the workers paid on 1099 forms legally comply with the requirement that they pay the entire amount (both the employer and the employee share) of payroll taxes (for Social Security and Medicare), we assume that half of misclassified independent contractors are paying the full amount of payroll taxes and that the other half are not. Since there is no mechanism for “nonemployers” to pay UI or workers' compensation taxes, we assume that none of the nonemployers are making these payments.

On an annual basis, employer premium and payroll tax fraud in the construction industry costs \$484 million, with \$275 million of that unpaid workers' compensation premiums and \$44 million in unpaid unemployment insurance taxes. The balance is comprised of unpaid Social Security and Medicare payroll taxes and state-mandated disability insurance that provide benefits to workers who may be injured off the job.

Figure 5: Health Care Costs Shifted to Medicaid and Other Payors by NYC Construction Businesses

Category of worker	Number of workers	Public cost of Medicaid coverage for workers receiving Medicaid (a) (\$ millions)	Cost of uncompensated health care shifted to other payors for workers without any health insurance (b) (\$ millions)
Misclassified independent contractor, paying own payroll taxes	28,150	\$45.0	\$16.2
Misclassified independent contractor, not paying payroll taxes	28,150	\$51.0	\$17.4
Off-the-books worker	12,800	\$3.0	\$10.5
Total, for all trades workers misclassified or paid off the books	69,100	\$99.0	\$44.1

Notes: Dollars in millions.

(a) The 2015 American Community Survey indicated that 31.4% of construction trades workers without private health insurance received Medicaid (that equals 14 percent of all construction trades workers.) Assumes that the annual cost of Medicaid-covered health care they receive is \$6,000.

(b) Assumes that 30% of construction trades workers without any form of health insurance receive health care services that fall into the "uncompensated care" category. In New York, the costs for uncompensated care are borne by health care providers (hospitals and clinics) and, through the Health Care Reform Act's uncompensated care surcharge, by employers that provide employee health insurance. Given the high incidence of construction accidents, this cost was estimated at \$3,000 per worker receiving uncompensated care.

Source: Estimates by Author, May 2017, using health insurance coverage data from the American Community Survey.

Only a little over half (54 percent) of NYC construction trades workers have private health insurance according to 2015 ACS data. Unionized construction workers receive employer-paid health insurance, but 14 percent of all construction trades workers have Medicaid coverage, and nearly one-third (32 percent) reported no health insurance coverage whatsoever. Fewer than 30 percent of non-union workers have employer-paid insurance, and a few buy their own health insurance.

About 24,000 NYC construction workers rely on Medicaid coverage and another 52,000 lack any health insurance coverage. Construction is dangerous work and there is a high incidence of injury (and fatal accidents) on construction site, particularly among non-union workers who receive far less safety training than unionized workers. For the purposes of estimating health care costs shifted to other payers, we assumed that 30 percent of uninsured construction workers were provided uncompensated health care services, with most of this likely provided in New York City public hospitals.

Total Medicaid costs are estimated at \$99 million per year, along with \$44 million in the provision of uncompensated health care. These costs are related to the lack of employer-provided health insurance and not the practice of misclassification per se.

Figure 6: Lost Income Tax Collections

	<u>Lost income taxes vs. workers paying income taxes at current wage rates (dollars in millions)</u>
Federal income tax	\$77.7
New York State income tax	\$34.4
New York City income tax	\$22.0
Subtotal, New York income taxes	\$56.4
Grand total, all income taxes	\$134.1

Note: These estimates do not include business income tax payments; payroll taxes are included in Figure 4.

Source: Estimates by Author, May 2017.

Fraudulent employment practices on the part of construction companies fuels the underground economy where taxes go unpaid. An estimated \$134 million in individual income tax payments were not made by the 41,000 construction workers who are either misclassified as independent contractors and not paying taxes and those who are paid in cash off the books entirely. This estimate does not include unpaid business income taxes—several assumptions would be necessary to generate realistic estimates.

This also assumes that half (28,150) of all misclassified construction workers are fully complying with the payment of payroll and personal income taxes that would come to \$109 million (including \$45 million in NYS and NYC income tax.) If fewer than half of misclassified construction workers are complying, then the amount of lost income taxes would be greater.

The above estimates are made for single workers with no dependents, and the unpaid income taxes are based on the average wages assumed for each category of worker. Obviously, the low wages paid these workers harms them, and all construction workers, and unduly enriches exploitative businesses. Such practices also harm law-abiding legitimate businesses that play by the rules and pay their fair share of taxes. When the wages paid to construction workers are higher, personal income taxes paid by construction workers are also greater.

Figure 7: Summary Table: Lost Payroll Taxes, Social Insurance Premiums, Personal Income Tax Collections, and Health Care Costs Shifted to Others, NYC Construction Industry

	Dollars in millions
Lost payroll taxes and social insurance premiums	\$484.0
Health care costs shifted to other payors	\$143.1
Lost income tax collections	\$134.1
Grand total: lost payroll taxes, social insurance premiums, personal income taxes, and health costs shifted to others	\$761.2

Source: Estimates by Author, May 2017.

Adding together these three sets of calculations allows a total estimate of **the fiscal costs of employer fraud in the New York City construction industry: \$761.2 million a year**. This amount does not include the lower wages suffered by construction workers who are under-paid or unpaid for their labor.

The \$761.2 million figure includes \$275 million not paid into workers' compensation funds, \$44 million not paid in state and federal unemployment taxes, \$56 million in unpaid New York State and New York City personal income taxes, and \$143 million in health care costs that are borne by New York and federal taxpayers in Medicaid or for uncompensated care, the cost of which is tacked onto the health insurance premiums paid by law-abiding New York employers who provide health insurance.

Another way to view these costs is that they come to an average of **\$11,016 per worker** who is either misclassified as an independent contractor or paid off the books entirely. Assuming such a worker averages 1,840 hours of work per year (46 weeks at 40 hours per week), that comes to about **\$6.00 per hour**. This is a conservative estimate of the economic and fiscal costs of employer fraud in the construction industry that are shifted to taxpayers and law-abiding employers. Again, this figure does not reflect the extent to which these workers are under-paid.

Figure 8: Summary Table for Costs Borne by NYS and NYC as a Result of Employer Fraud in the NYC Construction Industry

	Dollars in millions
Lost NYS social insurance premiums (unemployment, disability, and workers' comp)	\$317.7
Health care costs shifted to other NYS payors or taxpayers	\$93.6
Lost NYS and NYC income tax collections	\$56.4
Grand total: New York lost social insurance premiums, personal income taxes, and health costs shifted to others	\$467.7

Source: Estimates by Author, May 2017.

Figure 8 separates out from Figure 7 the NYC construction employer fraud figures that are borne within New York State, either by New York taxpayers or New York employers who suffer from the non-compliance with unemployment and workers' compensation systems. **Those costs borne within New York State total \$468 million annually.**

Note: it is assumed that federal taxpayers bear half the public cost of Medicaid for construction workers without health insurance.

As noted earlier, these estimates do not include the costs of lower wages suffered by construction workers who are under-paid or unpaid for their labor.

Appendix: Per Worker Payroll Taxes and Social Insurance Premiums, New York City Construction Trades Sector

2015	Misclassified independent contractors					
	Union worker (a)	Non-union construction employee (b)	Paying own payroll taxes (c)	Not paying own payroll taxes (d)	Off-the-books worker (e)	
Hourly wage	\$38.22	\$15.22	\$15.52	\$15.52	\$11.22	
Hours per year	1,840	1,840	1,840	1,840	1,840	
Annual wages	\$70,325	\$28,005	\$28,557	\$28,557	\$20,645	
	payroll rate (f)					
FICA	0.1240	\$8,720.28	\$3,472.60	\$3,541.04	\$3,541.04	\$2,559.96
Medicare	0.0290	\$2,039.42	\$812.14	\$828.15	\$828.15	\$598.70
NYS unemployment insurance (g)	0.0700	\$595.00	\$595.00	\$595.00	\$595.00	\$595.00
Federal Unemployment Tax (h)	0.0060	\$42.00	\$42.00	\$42.00	\$42.00	\$42.00
NYS disability (i)	0.0016	\$28.29	\$28.29	\$28.29	\$28.29	\$28.29
NYS workers' compensation (j)	0.1467	\$10,316.65	\$4,108.30	\$4,189.28	\$4,189.28	\$3,028.59
Annual payroll taxes and social insurance premiums if employers comply with NYS law (k)		\$21,741.63	\$9,058.33	\$9,223.76	\$9,223.76	\$6,852.53
Annual FICA and Medicare payroll taxes if paid by misclassified independent contractor				\$4,369.19		

Notes:

- (a) Mean annual wages from NYS DOL Occupational Employment Statistics for NYC construction trades in 2016 (1st quarter) divided by 1,840 annual hours, and adjusted to \$2015.
- (b) Median non-union hourly wage in construction, 2013-15, expressed in \$2015 dollars. Current Population Survey.
- (c) and (d) Hourly wage of \$15.52 is the average 2014 receipts per hour (assuming 1,840 annual hours) for construction "nonemployers," with 2.6% wage adjustment for 2015.
- (e) Hourly rate of \$11.22 is the adjusted non-employer average (c) and (d), adjusted by the ratio of 25th to 50th percentile non-union wages for 2013-15 from the CPS.
- (f) Payroll rates for FICA and Medicare are evenly shared between employer and employee, except in the case of a misclassified independent contractor.
- (g) Unemployment insurance premiums are paid only on first \$10,900 of annual wages in 2017.
- (h) FUTA is paid only on the first \$7,000 of annual wages. FUTA rate of 0.6 percent for 2017.
- (i) Under the NY State Insurance Fund, disability premiums for men are 16 cents per \$100 of wages, and are payable up to a maximum annual wage of \$17,680.
- (j) From a retired NYS workers' comp expert, Feb. 2013, \$14.67 was the workers' comp premium rate for major construction occupations, including assessments, per \$100 of wages.
- (k) This calculation is before application of federal or NYS prevailing wage requirement, if applicable.

Source: Estimates by Author, May 2017.