

Definitions.

Employee: An individual in an employment situation in which the employer has the right to control and direct the individual with regard to the result to be accomplished and the process by which the result is accomplished. An employee is subject to income tax withholding and is covered by Workers Compensation.

Independent Contractor: An individual who renders a service and meets contractor conditions established by the IRS. These conditions fall into three categories – Behavioral Control, Financial Control and the Relationship of the Parties.

The 20 factors used to evaluate right to control and the validity of independent contractor classifications include:

1. **Level of instruction.** If the company directs when, where, and how work is done, this control indicates a possible employment relationship.
2. **Amount of training.** Requesting workers to undergo company-provided training suggests an employment relationship since the company is directing the methods by which work is accomplished.
3. **Degree of business integration.** Workers whose services are integrated into business operations or significantly affect business success are likely to be considered employees.
4. **Extent of personal services.** Companies that insist on a particular person performing the work assert a degree of control that suggests an employment relationship. In contrast, independent contractors typically are free to assign work to anyone.
5. **Control of assistants.** If a company hires, supervises, and pays a worker's assistants, this control indicates a possible employment relationship. If the worker retains control over hiring, supervising, and paying helpers, this arrangement suggests an independent contractor relationship.

6. **Continuity of relationship.** A continuous relationship between a company and a worker indicates a possible employment relationship. However, an independent contractor arrangement can involve an ongoing relationship for multiple, sequential projects.
7. **Flexibility of schedule.** People whose hours or days of work are dictated by a company are apt to qualify as its employees.
8. **Demands for full-time work.** Full-time work gives a company control over most of a person's time, which supports a finding of an employment relationship.
9. **Need for on-site services.** Requiring someone to work on company premises—particularly if the work can be performed elsewhere—indicates a possible employment relationship.
10. **Sequence of work.** If a company requires work to be performed in specific order or sequence, this control suggests an employment relationship.
11. **Requirements for reports.** If a worker regularly must provide written or oral reports on the status of a project, this arrangement indicates a possible employment relationship.
12. **Method of payment.** Hourly, weekly, or monthly pay schedules are characteristic of employment relationships, unless the payments simply are a convenient way of distributing a lump-sum fee. Payment on commission or project completion is more characteristic of independent contractor relationships.
13. **Payment of business or travel expenses.** Independent contractors typically bear the cost of travel or business expenses, and most contractors set their fees high enough to cover these costs. Direct reimbursement of travel and other business costs by a company suggests an employment relationship.
14. **Provision of tools and materials.** Workers who perform most of their work using company-provided equipment, tools, and materials are more likely to be considered employees. Work largely done using independently obtained supplies or tools supports an independent contractor finding.

15. **Investment in facilities.** Independent contractors typically invest in and maintain their own work facilities. In contrast, most employees rely on their employer to provide work facilities.
16. **Realization of profit or loss.** Workers who receive predetermined earnings and have little chance to realize significant profit or loss through their work generally are employees.
17. **Work for multiple companies.** People who simultaneously provide services for several unrelated companies are likely to qualify as independent contractors.
18. **Availability to public.** If a worker regularly makes services available to the general public, this supports an independent contractor determination.
19. **Control over discharge.** A company's unilateral right to discharge a worker suggests an employment relationship. In contrast, a company's ability to terminate independent contractor relationships generally depends on contract terms.
20. **Right of termination.** Most employees unilaterally can terminate their work for a company without liability. Independent contractors cannot terminate services without liability, except as allowed under their contracts.