

Checklist: Employee or Independent Contractor?

Answer the following questions to help determine if your worker will be an employee or independent contractor. There may be some overlap with the answers, so please remember that the main determining factor will be whether or not the employer controls the work processes to achieve the result, or simply states the desired result and the worker may choose how they go about achieving it.

- Is the worker required to follow specific instructions as to the means and manner of performing the work? (Yes=Employee; No=Independent Contractor)
- Is there a set amount of hours and days that the person must work each week? (Yes=Employee; No=Independent Contractor)
- Does the employer supply the office, equipment, and tools needed to accomplish the work? (Yes=Employee; No=Independent Contractor)
- Must the work be performed on the employer's premises? (A "yes" answer often indicates the person is an employee, but there are instances where an independent contractor can be required to work on the premises.)
- Is the worker trained by the employer to perform the assignments? (Yes=Employee; No=Independent Contractor)
- Is the assigned work a part of the regular business of the employer? (Yes=Employee; No=Independent Contractor)
- Can the employer assign additional projects to the worker? (Yes=Employee; No=Independent Contractor)
- Is the person paid in the same manner as employees, e.g., biweekly? (A "yes" answer may indicate the person is an employee, but it can happen that the independent contractor is paid in the same or similar manner. Don't use the answer here as a sole determination of employee status.)
- Can the worker hire assistants? (Yes=Independent Contractor; No=Employee)
- Does the worker provide services to more than one firm? (Yes=Independent Contractor; No=Employee)
- Does the worker make his or her service available to the general public? (Yes=Independent Contractor; No=Employee)
- Is there a written contract between the parties delineating their rights and responsibilities? (Yes=Independent Contractor; No=Employee)
- Can either the worker or the employer terminate the relationship at will? (Yes=Employee; No=Independent Contractor)