

Determining Employee Status

The IRS has listed 20 factors to be taken into account in classifying individuals as employees or as independent contractors. Following is a list of those factors posed in the form of questions.

Answering these questions in the affirmative generally indicates employee status:

- Yes **1. Subject to your instructions as to when, where, and how work is to be performed?**
An employee is subject to comply with the instructions. The employer's right to instruct, not the exercise of that right, is the key. An independent contractor is hired to provide goods and services and is not instructed in great detail about how to provide the goods and services.
- No
- Yes **2. Required to work with an experienced employee or undergo other training?**
An employee is usually trained by one of the institution's experienced employees. An independent contractor ordinarily uses his or her own methods, is hired for his or her own expertise, and receives no training from the institution.
- No
- Yes **3. Performing services that are integral to the business' operations?**
An employee's services are usually integrated into the business operations. An independent contractor's services can usually stand alone and are not integrated into business operations.
- No
- Yes **4. Required to perform services personally?**
An employee renders services personally. An independent contractor is hired to provide a service and often the employer does not care who performs that job.
- No
- Yes **5. Performing services for a person with authority to hire, supervise and pay assistants?**
An employee has little control over the hiring, supervising and payment of assistants. An independent contractor will hire, supervise and pay other workers under a contract in which he or she agrees to provide materials and labor and is responsible for the attainment of a given result.
- No
- Yes **6. Performing services as part of a continuing relationship?**
An employee normally has a continuing relationship even though the services may be performed at irregular intervals, on a part-time basis, seasonally or over a short term. An independent contractor has a defined relationship that typically ends when the services are completed.
- No
- Yes **7. Subject to established work hours?**
An employee has set hours of work. An independent contractor tends to establish time use as a matter of right.
- No
- Yes **8. Required to work full-time?**
An employee usually devotes full time to the business of the employer. An independent contractor is free to work when, for whom, and for as many employers as desired.
- No
- Yes **9. Performing services on the premises of the employer?**
Although an employee typically does work on the employer's premises, performance of work off-site does not mean that no right to control exists. An independent contractor usually does work that can be completed on or off the premises
- No
- Yes **10. Required to perform services in an order or sequence set by the employer?**
An employer has the right to set the sequence an employee must perform services. An independent contractor is normally free to perform services in any manner that produces desired results.
- No

- Yes **11. Required to submit regular or written reports to the employer?**
An employee provides regular written or oral reports. An independent contractor submits reports as specified by the contract and in broader terms and less frequently than an employee.

- No
- Yes **12. Subject to discharge by the employer?**
An employee is subject to discharge. An independent contractor cannot be fired so long as results produced measure up to contract specifications.

- No
- Yes **13. Entitled to end the relationship with the employer at any time without liability?**
An employee has the right to end the relationship without incurring liability. An independent contractor usually agrees to complete a specific job and is responsible for its satisfactory completion or is legally obligated to make good for failure to complete the job.

Answering the following questions in the affirmative generally indicates independent contractor status:

- Yes **14. Paid by the job, instead of by the hour, week or month?**
An employee is usually paid for work by the hour, week or month. An independent contractor is customarily paid by the job in a lump sum or on a commission basis.

- No
- Yes **15. Required to pay for his or her own business travel expenses?**
An employee usually devotes full time to the business of the employer. An independent contractor is free to work when, for whom, and for as many employers as desired.

- No
- Yes **16. Required to furnish significant tools and materials necessary to perform the services?**
An employee usually is furnished with any tools and materials needed although in some jobs it is customary to use your own hand tools. An independent contractor supplies the tools and equipment.

- No
- Yes **17. Using facilities which he or she maintains or in which he or she invests?**
An employee normally does not have a significant investment in the facilities used in the job. An independent contractor often has a significant investment in facilities (equipment or premises) used in performing services.

- No
- Yes **18. Performing services for which he or she can realize a profit or suffer a loss?**
An employee usually does not realize a profit or suffer a loss as a result of the services provided. An independent contractor is in a position to realize a profit or suffer a loss as a result of services provided.

- No
- Yes **19. Performing services for more than one employer at a time?**
An employee tends to work exclusively for one employer. An independent contractor normally works for more than one employer at a time.

- No
- Yes **20. Making services available to the public on a regular basis?**
An employee usually does not make services available to the general public. An independent contractor does make services available to the general public by advertising, holding a business license and/or via telephone directory listings.