

Internal Revenue Service 20 point Checklist for Independent Contractor

There are 20 factors set forth in Revenue Ruling 87-41 and used by the IRS to determine whether you have enough control over a worker to be an employer. Though these rules are intended only as a guide - the IRS says the importance of each factor depends on the individual circumstances - they should be helpful in determining whether you wield enough control to show an employer-employee relationship.

- 1. Profit or loss.** Can the worker make a profit or suffer a loss as a result of the work, aside from the money earned from the project? (This should involve real economic risk-not just the risk of not getting paid.)
- 2. Investment.** Does the worker have an investment in the equipment and facilities used to do the work? (The greater the investment, the more likely independent contractor status.)
- 3. Works for more than one firm.** Does the person work for more than one company at a time? (This tends to indicate independent contractor status, but isn't conclusive since employees can also work for more than one employer.)
- 4. Services offered to the general public.** Does the worker offer services to the general public?
- 5. Instructions.** Do you have the right to give the worker instructions about when, where, and how to work? (This shows control over the worker.)
- 6. Training.** Do you train the worker to do the job in a particular way? (Independent contractors are already trained.)
- 7. Integration.** Are the worker's services so important to your business that they have become a necessary part of the business? (This may show that the worker is subject to your control.)
- 8. Services rendered personally.** Must the worker provide the services personally, as opposed to delegating tasks to someone else? (This indicates that you are interested in the methods employed, and not just the results.)
- 9. Hiring assistants.** Do you hire, supervise, and pay the worker's assistants? (Independent contractors hire and pay their own staff.)
- 10. Continuing relationship.** Is there an ongoing relationship between the worker and yourself? (A relationship can be considered ongoing if services are performed frequently, but irregularly.)
- 11. Work hours.** Do you set the worker's hours? (Independent contractors are masters of their own time.)
- 12. Full-time work.** Must the worker spend all of his or her time on your job? (Independent contractors choose when and where they will work.)
- 13. Work done on premises.** Must the individual work on your premises, or do you control the route or location where the work must be performed? (Answering no doesn't by itself mean independent contractor status.)
- 14. Sequence.** Do you have the right to determine the order in which services are performed? (This shows control over the worker)
- 15. Reports.** Must the worker give you reports accounting for his or her actions? (This may show lack of independence)
- 16. Pay Schedules.** Do you pay the worker by hour, week, or month? (Independent contractors are generally paid by the job or commission, although by industry practice, some are paid by the hour.)
- 17. Expenses.** Do you pay the worker's business or travel costs? (This tends to show control.)
- 18. Tools and materials.** Do you provide the worker with equipment, tools, or materials? (Independent contractors generally supply the materials for the job and use their own tools and equipment.)
- 19. Right to fire.** Can you fire the worker? (An independent contractor can't be fired without subjecting you to the risk of breach of contract lawsuit.)
- 20. Worker's right to quit.** Can the worker quit at any time, without incurring liability? (An independent contractor has a legal obligation to complete the contract.)

If you answer

"Yes" to all of the **first 4 questions**, you're probably dealing with an **Independent Contractor**

"Yes" to any of **questions 5 through 20** tend to indicate that your worker may be an **Employee**