

**SCOPE:**

To help determine how to properly classify a worker, consider these three categories – Behavioral Control, Financial Control and Relationship of the Parties.

1. Behavioral Control: Does the company control or have the right to control what the worker does and how the worker does his or her job?
2. Financial Control: Are the business aspects of the worker’s job controlled by the payer? These include things like how the worker is paid, whether expenses are reimbursed, who provides tools/supplies, etc.
3. Type of Relationship: Are there written contracts or employee type benefits (i.e. pension plan, insurance, vacation pay, etc.)? Will the relationship continue and is the work performed a key aspect of the business?

If you answered “yes” to any of the three questions above, the worker will most likely be classified as an employee. But that may not always be the case. Generally, if the company has control over these three categories, the worker should be classified as an employee.

If you answered “no” to any of the three questions above, the worker will most likely be classified as an independent contractor. Generally, if the worker has more control over these, the worker should be classified as a contractor.

**TEST:**

To get a good view of who is in control and how to classify a worker appropriately, complete the 20-factor test below to determine the potential employment classification.

<b>Twenty Factor Test</b>		<b>Check Yes or No</b>
1. Instructions	Is the worker required to comply with employer’s instructions about when, where and how to work?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Training	Is training required? Does the worker receive training from the employer or work with an experienced employee?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Integration	Is the success or continuation of your business somewhat dependent on the type of service provided by the worker?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4. Services rendered personally	Is the worker personally responsible to perform the work?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5. Hire, supervise and pay assistants	Does the worker have the ability to hire, supervise and pay others for the employer?	<input type="checkbox"/> Yes <input type="checkbox"/> No
6. Continuing relationship	Does the worker have a continuing relationship with the employer?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7. Set hours of work	Does the worker have to work specific or set hours?	<input type="checkbox"/> Yes <input type="checkbox"/> No
8. Full-time work required	Is the worker required to work full-time at your company?	<input type="checkbox"/> Yes <input type="checkbox"/> No
9. Place of Work	Does the worker perform work on the employer’s premises and use company equipment?	<input type="checkbox"/> Yes <input type="checkbox"/> No

10. Sequence of Work	Is the worker required to follow a set sequence or routine to complete the work?	<input type="checkbox"/> Yes <input type="checkbox"/> No
11. Reporting Obligations	Does the worker submit regular written or oral reports to the employer?	<input type="checkbox"/> Yes <input type="checkbox"/> No
12. Method of Payment	Is the worker paid by the hour, week, or month?	<input type="checkbox"/> Yes <input type="checkbox"/> No
13. Payment of Business and Travel Expenses	Does the worker receive reimbursement for travel expenses?	<input type="checkbox"/> Yes <input type="checkbox"/> No
14. Furnishing of Tools and Materials	Does the worker rely on the employer for tools and work materials?	<input type="checkbox"/> Yes <input type="checkbox"/> No
15. Investments	Has the worker made investments in facilities or equipment to perform their work?	<input type="checkbox"/> Yes <input type="checkbox"/> No
16. Risk of Loss	Is the payment made to the worker on a fixed basis regardless of loss?	<input type="checkbox"/> Yes <input type="checkbox"/> No
17. Working for more than one company at a time	Does the worker only perform services for one company?	<input type="checkbox"/> Yes <input type="checkbox"/> No
18. Availability of services to the general public	Are the services offered to the employer by the worker unavailable to the general public?	<input type="checkbox"/> Yes <input type="checkbox"/> No
19. Right to discharge	Can the worker be fired by the company?	<input type="checkbox"/> Yes <input type="checkbox"/> No
20. Right to quit	May the worker terminate services at any time?	<input type="checkbox"/> Yes <input type="checkbox"/> No

In general, “no” responses to questions 1-16 and “yes” responses to questions 17-20 will generally indicate an independent contractor however, that is not always the case nor is it guaranteed that should be the correct classification. It is important to remember the IRS assumes a worker is an employee unless proven otherwise and there is no specific “magic number” of factors to determine a worker’s status. As you look at the factors test, please note the IRS does not look at any one factor but one factor can be enough to cause the IRS to determine a worker is an employee and not an independent contractor.