

IRS TEST: EMPLOYEE OR INDEPENDENT CONTRACTOR?

The Internal Revenue Services (IRS) uses the following twenty factors to analyze whether an individual is an employee or an independent contractor:

1. Whether the individual is required to follow instructions;
2. The amount of training the individual received related to the particular job;
3. The level of integration of the individual into the employer's business;
4. Whether the individual personally renders her services;
5. Whether the individual hires, fires and pays assistants;
6. The existence of a continuing relationship;
7. Whether the individual works an established amount of hours;
8. Whether the individual works full time;
9. Whether the individual works on the employer's premises;
10. Whether the individual works according to a sequence set by the employer;
11. Whether the individual must submit regular or written reports to the employer;
12. Whether the individual is paid by time rather than by project;
13. Whether the individual is reimbursed for expenses;
14. Whether the individual furnishes the necessary tools and materials;
15. Whether the individual has invested in the facilities for performing the services;
16. Whether the individual can realize a profit or loss;
17. Whether the individual works for more than one entity at a time;
18. Whether the individual makes his or her services available to the general public;
19. Whether the employer has the right to discharge the individual; and
20. Whether the individual has the right to terminate the relationship.

IRS Revenue Ruling 87-41, 1987-1 C.B. 296. No one factor or combination of factors is dispositive, although the right of control is considered the most important.