

## **Employee vs. Independent Contractor**

The IRS uses a twenty question test to assess the level of control ("yes" answers provide evidence of an employer--employee relationship):

1. Is the worker required to follow your instructions in completing the job or accomplishing the task?
2. Do you provide the training necessary for completion of the job?
3. Are the worker's specific personal services required for successful completion of the job?
4. Are the worker's services crucial to the success or continued existence of your company?
5. Do you set work hours?
6. Does the worker have a continuing relationship with your company?
7. Do you hire, supervise, or pay any of the worker's assistants?
8. Is the worker precluded from seeking assignments with other companies or from refusing assignments offered by your company?
9. Do you specify the location where the work must be performed?
10. Do you direct the order or sequence of tasks to be performed?
11. Do you require progress reports?
12. Is the worker paid by the hour, week, or month, rather than for the completion (or stage of completion) of the project?
13. Does the worker work only for your company?
14. Do you pay business overhead and incidental expenses?
15. Do you provide equipment, tools, and materials?
16. Is the work performed on your premises or using your facilities?
17. Are the worker's services not available to the general public?
18. Do you provide a minimum "salary" and therefore shield the worker from the risk of profit or loss on the job?
19. Do you have the right to terminate the worker even if the job results are achieved?
20. Are you required to pay the worker for time spent even if the job is not completed?

Honest answers to the above questions will help you to determine whether a worker is a contractor or an employee. Remember that job title, designation as a "contractor" within the "contract," or the degree of freedom enjoyed by the worker have no bearing on the level of your control and therefore no weight in the determination of status.