

Independent Contractor or Employee?

The burden of determining whether individuals providing services to your company are considered employees or independent contractors falls on you, the business owner. If you incorrectly classify an individual as an independent contractor instead of an employee, you can be held liable for employment taxes for that worker, plus a penalty.

Your business is responsible for *withholding* income taxes, Social Security and Medicare tax and *paying* Social Security, Medicare, and unemployment tax on wages paid to the employee. An independent contractor would provide the business with an invoice for services performed and worry about their own taxes.

A great way to evaluate if a worker is an employee or an independent contractor is to use the following 3 guidelines.

1. Is the worker **EXCLUSIVE**? Is the worker performing the work just for your company or multiple companies?
2. Who owns the **TOOLS**? Are you providing the necessary tools for the worker to perform the job?
3. Who has **CONTROL** over the schedule? Are you telling the worker how, when, and where the work should be performed?

If the worker is Exclusive to your company, you provide the Tools, and you are in Control of the worker's schedule it is most likely that the worker is an employee not an independent contractor.

One last side note, if an employee retires from you company and comes back to work part-time he is still considered an employee.

For more information on this topic you can reference Publication 15-A, The Employer's Supplemental Tax Guide which can be found on www.irs.gov.

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