

IRS's 20 Questions for Independent Contractors

Under common law, a worker is an employee if the person for whom they work has the right to direct and control the way they work, both as to the final result and as to the details of when, where, and how the work is to be done. It is the IRS view that the employer need not actually exercise control. It is sufficient that they have the right to do so. IRS has adopted 20 questions to determine whether workers are employees.

1. Is the person providing services required to comply with instructions about when, where, and how the work is to be done?
2. Is the person provided training to enable them to perform a job in a particular method or manner?
3. Are the services provided integrated into the business' operation?
4. Must the services be rendered personally?
5. Does the business hire, supervise or pay assistants to help the person performing the services under contract?
6. Is the relationship between the individual and the person they perform services for a continuing relationship?
7. Who sets the hours of work?
8. Is the worker required to devote their full time to the person they perform services for?
9. Is the work performed at the place of the business of the potential employer?
10. Who directs the order or sequence in which the work must be done?
11. Are regular written or oral reports required?
12. What is the method of payment - hourly, commission or by the job?
13. Are business and/or traveling expenses reimbursed?
14. Who furnishes tools and materials used in providing services?
15. Does the person providing services have a significant investment in facilities used to perform services?
16. Can the person performing the services realize both a profit or a loss?
17. Can the person providing services work for a number of firms at the same time?
18. Does the person make their services available to the general public?
19. Is the person providing services subject to dismissal for reasons other than nonperformance of contract specifications?
20. Can the person providing services terminate their relationship without incurring a liability for failure to complete a job?