

Summary of the IRS's 20 Common Law Factors

FACTOR	INDEPENDENT CONTRACTOR	EMPLOYEE
1. Instructions	Not required to follow instruction on how to perform services.	Can receive instruction on means and methods of achieving a result.
2. Training	Posses the skills needed to perform the task; does not need additional training.	May receive training from the employer.
3. Integration into Principal's Business	Not essential to the principal's business or not incorporated into the product or services sold by the principal.	Provides the services essential to bringing the employers product or services to market.
4. Services Personally Performed	Should be able to subcontract all or part of the project.	Cannot delegate responsibilities.
5. Hiring, Supervising and Paying Assistants.	Can hire and supervise its own employees, but should not supervise or be supervised by principal's employees.	Deals with subcontractors and other employees, only in the framework of the employer's directions or policies.
6. Continuing Relationship	Generally works on one project and moves on, accepting additional projects when he or she is available.	Enjoys a continuing relationship with employer.
7. Hours of Work	Sets own work hours, working as necessary to achieve the end result.	Employer can dictate the hours an employee works.
8. Full Time Required	Usually has the right to work simultaneously for the principal and others, as long as the end result is reached.	Usually must make a time commitment to the employer.
9. Job Location	Should be able to choose where to perform some, if not all, of the services.	Must perform services at the location chosen by the employer.
10. Order of Sequence of Work	Can control manner and method of performing services.	Is subject to employer's control over sequence of tasks.
11. Reports Not Required	Responsible only for end result. Not usually required to submit interim reports.	Employer can require interim reports.
12. Method of Payment	Flat rate payment for the project is most consistent with independent contractor status because the contractor is responsible for producing the completed project.	Usually paid on hourly or salary basis.
13. Payment of Expenses	Is expected to assume the burden of business expenses.	Is usually reimbursed for business expenses.

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14. Tools and Equipment	Should have the tools and equipment necessary to perform the services independently.	Employer provides the tools its employees need.
15. Significant Investment in Business	Makes an investment in tools, business equipment, publications, and supplies appropriate for the business.	Is not required to invest in the employer's business.
16. Realization of Profit or Loss	Accepts both benefits and risks of a business transaction and has the opportunity for profit from the project price <i>and</i> risks a loss if the result is unacceptable or if costs exceed the project price.	Is paid for his or her time and bears no risk of wage loss if the employer's product is unprofitable.
17. Working for Multiple Companies	Can and often does work for multiple firms simultaneously.	Although employees may hold more than one job, an employer can require loyalty and preclude some alternative jobs.
18. Available to the Public	Offers his or her services to the general public.	Does not perform services directly to the public, but only for the employer.
19. Right to Discharge	A principal can terminate an IC relationship only under the terms of an agreement. If termination by the principal is outside the scope of the agreement, the principal will be liable for breach of contract.	Can be discharged at will.
20. Right to Quit	Has an obligation to complete the work under contract.	Absent special circumstances, an employee may quit employment at any time, without incurring liability to the employer.