

## The 20 standards used by the IRS to determine the classification of a worker are:

1. **To what degree does the recipient “direct the work?”** (Generally, the more detailed the directions, the more likely the worker is an employee and not a contractor.)
2. **Under what conditions can the worker be fired?** (An independent contractor should not be fired unless contractual obligations are not met.)
3. **What are the legal obligations of the worker?** (An employee may not be legally obligated and not experience any undue repercussions for doing incorrect work or violating company policy or federal, state and local laws, while an independent contractor may incur civil liabilities. The contract would specify the consequences of breach of contract or premature termination.)
4. **Are assistants subject to control by the employer?** (Assistants should be employees of the independent contractor, not subject to the employer’s control.)
5. **Is the worker paid per time intervals?** (An employee-employer relationship is indicated when workers are paid by the hour, day or week. Independent contractors should be paid on a per job basis.)
6. **Does the employer provide training?** (Independent contractors are highly skilled professionals who should possess the expertise needed to do a specific task or project. Employer-provided training indicates an employee relationship.)
7. **Is a worker distinguished from the employer’s regular employees?** (An independent contractor should not be doing normal everyday operational duties. Reference to the contract person in the workplace should indicate an independent status.)
8. **Is the work performed characterized by personal service?** (The contract should not indicate that the work be performed personally for any specific individual.)
9. **Does the worker provide continuing services for the employer?** (Generally, a service performed regularly for the same employer indicates that an employer-employee relationship may exist.)
10. **Are work hours set by the employer?** (Scheduling work is a controlled task and indicates an employer-employee relationship.)

11. **Does the employer furnish tools?** (An independent contractor normally provides the tools necessary to perform contractual services.)
12. **Is the work performed at the employer's place of business?** (Some control is indicated when the worker is near the employer, but it is not concrete. A separate place of business is one characteristic of an independent contractor.)
13. **Has the worker made significant investments in his or her business?** (Generally, a business has assets such as facilities, equipment and supplies.)
14. **Is the worker required to submit regular reports?** (Regular reporting by the worker is evidence of control. This does not preclude a final report at the conclusion of the project.)
15. **Does the worker devote full time to one employer?** (An independent contractor should offer services to multiple clients. Too much concentration on the work of one employer may create dependence and lead to control by the employer.)
16. **Does the employer designate the order or sequence of work to be performed?** (The employer can specify the output, but should not be able to direct or control how an independent contractor does the job.)
17. **Does the employer of the services pay business and traveling expenses?** (Whenever possible, the cost of expenses should be covered by the contract. The payment of expenses outside of the contract's scope may be construed as employee expenses.)
18. **Is the worker exposed to normal profit and loss risks associated with operating a business?** (If there is evidence that the worker is subject to both suffering losses and reaping profits on a project or job, then the worker is operating a business and is an independent contractor.)
19. **Does the worker provide services to the general public?** (An employer-employee relationship exists when the worker performs services exclusively for one employer. Working for multiple clients demonstrates that the worker is operating an independent trade or business.)
20. **Does the worker provide services to more than one employer?** (The contract between employer and the worker does not restrict the worker from offering his or her services to other parties.)

Three additional factors that have been considered by the courts to determine worker status include the following:

1. the level of skill required by the worker;
2. the intent of the parties; and
3. the prevailing industry practice.