

Before you can determine how to pay a person performing services, you must determine whether that person is an employee or an independent contractor. Whether the worker is an employee or an independent contractor depends on the facts of the particular situation, not on the name you choose to give the relationship. Under federal tax law and regulations, the substance of the relationship, not the label, determines the worker’s status.

Generally, the University must withhold and pay income, social security and Medicare taxes, and pay unemployment tax, on wages paid to a worker, but not on payments to an independent contractor. If you misclassify an employee as an independent contractor, the IRS may hold the University liable for taxes for that worker. The University will pay those taxes, and any penalties due to the IRS, from your budget.

There are three (3) primary areas that are of concern when determining whether a worker is an independent contractor or an employee: behavioral control, financial control, and the type of relationships between the worker and the University. To help address these issues, please answer the following questions:

- I. Behavioral Control – these questions will help to determine the extent to which the University has a right to direct and control how the worker does the task.
 1. Will you instruct the worker in any of the following areas:

A. When and where to do the work?	Y	N
B. What tools or equipment to use?	Y	N
C. What workers to hire or assist with the work?	Y	N
D. Where to purchase supplies or services?	Y	N
E. What work must be performed by a specified individual?	Y	N
F. What order or sequence to follow?	Y	N
 2. Describe the extent to which the University will be exercising behavioral control over how the work results are achieved.
 3. Will the University be providing any training to the worker in order for the worker to complete the required task?

	Y	N
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- II. Financial Control – these factors will help to determine the extent to which the University has the right to control the business aspects of the workers job.
 1. Will the worker incur un-reimbursed business expenses?

	Y	N
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 2. Will the University reimburse the worker for any expenses associated with the work?

	Y	N
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If yes, list those expenses:
 3. Will the worker be performing work for the University at their own facilities?

	Y	N
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 4. Will the worker be performing work for the University on-site or at a place designated by the University?

	Y	N
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If yes, explain where the work will be performed.

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| 5. | Does the independent contractor solicit or market their services to the general public? | Y | N |
| 6. | Does the worker maintain a visible business location? | Y | N |
| 7. | Will the worker be paid by an hourly, daily, or weekly rate? | Y | N |
| 8. | Will the worker be paid a flat fee for the work? | Y | N |
| 9. | Will the worker realize a profit other than their salary or could they realize a loss as a result of this arrangement? | Y | N |
| 10. | Has the worker made an investment in the work beyond their time? For example, is there an investment in facilities, equipment, etc.? | Y | N |

III. The third area involves the type of relationship between the parties.

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| 1. | Is there a written contract describing the relationship between the parties? | Y | N |
| 2. | Is the University providing the worker with any benefits, i.e., vacation or sick pay, etc? | Y | N |
| 3. | Will the relationship between the parties continue for an indefinite period? | Y | N |
| 4. | Will the University engage the worker for a specific project or period of time? | Y | N |
| 5. | Are the services performed by the worker a key aspect of the University's regular business activities? | Y | N |

COMPLETED BY (REQUESTOR)

DATE

REVIEWED BY (PROCUREMENT DEPARTMENT)

DATE