How does an employer determine if an individual is an employee or an independent contractor?

Tell Me

1. Before 1996, the Internal Revenue Service (IRS) relied on the 20 factors identified in Rev. Rul. 87-41 in order to determine a worker’s status.

Please see the Independent Contractor Rules of Thumb for a complete list of the 20 factors.

2. In 1996, the IRS developed the following three-factor test to determine worker classification, known as “Common Law Rules:”

   a. Behavioral Control – Does the business have the right to direct or control how the service provider provides the service?
   b. Financial Control – Does the business have the right to control the economic aspects (i.e., the method of payment, reimbursements, provision of tools and supplies) of the worker’s job?
   c. Relationship of the Parties – How do the worker and the business perceive the relationship?

Related FAQs

- How is the Independent Contractor Checklist used to determine worker classification?
- What is the Independent Contractor Checklist (ICC) eForm?
- How does an employer determine if an individual is an employee or an independent contractor?
- Who determines the worker classification?
- What is the difference between an independent contractor and an employee?