How is the Independent Contractor Checklist used to determine worker classification?

Tell Me

Access the Independent Contractor Checklist (ICC) eForm if you need to complete the checklist.

The Tax Office analyzes the answers provided on the Independent Contractor Checklist (ICC) using the guidance provided by the IRS to determine whether the individual should be considered an independent contractor or an employee. Explanations for each question on the ICC are in the following table:

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<th>Count</th>
<th>ICC Question</th>
<th>Explanation</th>
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| 1     | Is the individual receiving retirement benefits from the state of North Carolina? | • This question addresses the relationship of the parties test.  
• An individual who has been employed with the University or state of North Carolina in the past would be more likely to be considered an employee.  
• If you answer “Yes” to this question, please make sure the service provider is aware of the state’s retirement reemployment laws and have them complete an ESRR form.  
• For more information, please contact the North Carolina Department of the State Treasurer at www.myncretirement.com or call (877) 627-3287. |
| 2     | Is the individual on record as a current employee of the University or any other NC state agency? | • This question addresses the relationship of the parties test.  
• The individual is more likely to be considered an employee if they are currently an employee of the University or any other state agency.  
• State employees are subject to dual employment rules per the NC State Personnel Manual.  
• Under these rules, state employees are required to be paid as employees using a CP-30 form, Request for Additional Payment for Work Performed for Other State Agency. |
| 3     | During the 12 months prior to this work, was the individual an employee of the University or any other North Carolina state agency? | • This question addresses the relationship of the parties test.  
• A continuing relationship between an individual and the University indicates an employer-employee relationship.  
• If the individual is a University or state employee, this situation strongly favors the employee classification.  
• State employees are subject to dual employment rules per the NC State Personnel Manual.  
• Under these rules, state employees are required to be paid as employees using a CP-30 form. |
| 4     | Is it expected that the University will hire this individual as an employee following the termination of this work? | • This question addresses the relationship of the parties test.  
• A continuing relationship between an individual and the University indicates an employer-employee relationship.  
• If the University is expecting to hire this individual, this situation favors the employee classification. |
| 5     | Is this individual related or married to a UNC Charlotte employee? | • This question addresses the potential for a conflict of interest.  
• If a relationship is present, the Office of Legal Affairs will review the checklist.  
• If you answer “Yes,” please provide the name(s) of the UNC Charlotte employee(s). |
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| 6 | Does this individual have a business relationship with any UNC Charlotte employee? | - This question addresses the potential for a conflict of interest.  
  - If a business relationship external to UNC Charlotte exists between the individual and a UNC Charlotte employee, a conflict of interest may be present.  
  - Example: The individual and the requestor have co-founded a consulting business.  
  - If a relationship is present, the Conflict of Interest Manager or Office of Legal Affairs will review the checklist.  
  - If you answered “Yes,” please provide the name(s) of the UNC Charlotte employee(s). |
| 7 | Does the University provide the individual with instructions as to when, where, and how the work is to be performed? | - This question addresses the behavioral control test.  
  - If the University provides the individual with detailed instructions as to how to provide the service, the employee classification is favored.  
  - This question focuses not necessarily on the final product but on how the work is performed.  
  - Independent contractors tend to work independently. |
| 8 | Does the University provide training to the individual?                  | - This question addresses the behavioral control test.  
  - Employees tend to receive training from their employer.  
  - Independent contractors tend to use their own methods and do not receive training from those who purchase their services. |
| 9 | Does the University require the individual to submit interim reports?    | - This question addresses the behavioral control test.  
  - If the individual is expected to provide progress reports, this indicates that the employer is controlling the method used for performing the work. |
| 10| Does the University pay for the individual’s business and travel expenses?| - This question addresses the financial control test.  
  - Employees tend to have their expenses paid by their employer whereas independent contractors tend to pay for expenses independently. |
| 11| Does the individual have an investment in his or her own business?       | - This question addresses the financial control test.  
  - An individual who has an investment in their own business is more likely to be considered an independent contractor. |
| 12| Does the individual make his or her services available to other relevant markets? | - This question addresses the financial control test.  
  - An individual who makes his or her services available to other markets is more likely to be considered an independent contractor. |
| 13| Is the individual paid by the hour, week or month?                       | - This question addresses the financial control test.  
  - Employees are usually paid wages at regular intervals whereas independent contractors are usually paid a flat fee for their services. |
| 14| Can the individual recognize a profit or loss from the services performed?| - This question addresses the financial control test.  
  - Since an independent contractor is normally paid a flat fee and is responsible for their expenses, this individual can normally recognize a profit or loss from the services provided. |
| 15| Does the University have a written contract with the individual for the services being performed? | - This question addresses the relationship of the parties test.  
  - Independent contractors usually receive a contract addressing expectations, compensation, and other terms of service.  
  - However, a contract alone does not necessarily indicate that the individual is an independent contractor. |
| 16| Is the work being performed a key or integral part of the regular business of the University? | - This question addresses the relationship of the parties test.  
  - Employee classification is more likely if the services performed are key or integral to the regular business of the university. |
If the work is teaching, lecturing and/or instructional in nature, is the work associated with a for-credit class?

- This question addresses the relationship of the parties test.
- Teaching, lecturing and/or instructional related activities, as they relate to for-credit classes, are considered a key or integral aspect of the university and favor employee classification.

Can the University refuse payment to the individual for unsatisfactory work?

- This question addresses the relationship of the parties test.
- If the University can refuse payment for unsatisfactory work, then the individual is more likely to be classified as an independent contractor.

Note

For information regarding the ICC eForm, read this FAQ.

Related FAQs

- What is the appropriate method for paying an independent contractor?
- 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?