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SOCIETY

Employee or Independent Contractor?



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Importance

- The classification determines an organization's liability for
 - Federal Income Tax,
 - Social Security Tax,
 - Medicare Tax, and
 - Unemployment Tax
- Incorrect classifications are costly!
 - The IRS may hold the organization liable for employment taxes for the individual or company since their employ began
 - The IRS may also charge interest and penalties on top of these taxes



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Why Hire an Independent Contractor?

- Reduced Overhead
- No Employee Benefits
- Temporary

Downsides of Hiring an Independent Contractor

- Lack of Control
- Misclassification Penalties



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Why Hire an Employee?

- Loyalty
- Multiple Roles
- Improved Work Flow

Downside of Hiring Employees

- Added Responsibility
- Extra Overhead
- Spending more time managing a growing workforce instead of performing other duties



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Basis for Classification

- Behavioral Control
 - Who controls what the worker does and how the worker does the job?
- Financial Control
 - How is the worker paid? Are expenses reimbursed?
- Type of Relationship
 - Are there employee-type benefits? Is there a written contract? What is the duration of the relationship?



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Count as an Employee if...

- The organization provides instructions about when, where, and how to perform the work
- The organization provides training to the worker
- The services provided are integrated into business operations
- Services must be rendered personally by the worker
- The organization hires, supervises, and pays the workers



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Count as an Employee if...

- The organization sets work hours and schedules
- Work is performed on the organization's premises
- There is a continuing relationship between organization and worker
- Workers devote full time to the work of the organization
- Workers are required to submit oral and written reports



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Count as an Employee if...

- Workers are paid by the hour, week, or month
- The organization has the right to discharge the workers at will
- The worker can terminate his or her relationship with the organization without incurring liability
- The organization pays travel and incidental expenses for the workers



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Count as an Independent Contractor if...

- Workers furnish significant amounts of tools, materials, and equipment
- Workers have investment in the facilities
- Workers can realize a profit or loss
- Workers provide services for more than one organization at a time
- Workers render services for the general public



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Still Unsure?

- If you cannot decide whether a worker is an employee or an independent contractor, the IRS will assist you.
- Complete form SS-8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Withholding*, and the IRS will review the information and officially determine the worker's status.



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Best Practices

- Develop and issue a standard independent contractor agreement
 - Include specific provisions regarding the contractor's non-employment status
- Consider completing IRS Form SS-8 internally
- Independent contractor formally submits a bill or invoice on their letterhead detailing pertinent services performed