

## Employee/Contractor Determination Tool

There is no single test to determine if a worker should be treated as an employee or a contractor. The IRS has developed a list of 20 factors<sup>1</sup> that may be examined in determining whether an employer-employee relationship exists. The question associated with each factor has been worded so that a "yes" answer would result in a "X" below "Employee" and a "no" answer would result in an "X" recorded under the "Contractor" column. The column with the most check marks would be an indicator of whether a worker should be treated as an employee or a contractor.

Worker Name: _____ Employer Name: _____ Date: _____	Employee Yes	Contractor No
1. Instructions- Do you have the right to require compliance with instructions?		
2. Training- Do you require attendance at training sessions?		
3. Integration- Are worker's services into your business operations?		
4. Services Rendered Personally- Are the services provided performed personally?		
5. Hiring, supervision and paying assistants- The assistant is <u>not expected</u> to hire others to provide material and labor who would be responsible only for the result?		
6. Continuing relationship- Have you had a continuing relationship with the worker?		
7. Set hours of work- Does the worker have set hours of work?		
8. Full time required- Must the worker devote substantially full time to your business?		
9. Doing work on employer's premises- Is the work performed primarily on your premises?		
10. Order of sequence test- Do you require worker to perform services in a specific sequence?		
11. Oral or written reports- Is your worker required to submit regular written reports?		
12. Payment by the hour, week or month- Do you pay yor worker by the hour, week or month?		
13. Payment of business and/or traveling expenses- Do you pay or reimburse worker for expenses?		
14. Furnishing tools and materials- Do you supply significant tools and materials to the worker?		
15. Significant Investment- Has the worker not made any significant investment in the facility where the work is performed?		
16. Realization of profit or loss- Would the worker <u>not be</u> exposed to a profit or loss as a result of providing services?		
17. Working for more that one firm at a time- Does the worker only work for one firm at a time?		
18. Making service available to the general public- Does your worker <u>not offer</u> services to the public on a regular basis?		
19. Right to Discharge- Do you feel you have a right to discharge a worker?		
20. Right to terminate- Does your worker have the right to terminate the relationship without incurring liability?		
<b>Number of "X" Marks</b>	<b>Employee</b>	<b>Contractor</b>

<sup>1</sup>"Present Law and Background Relating to Worker Classification for Federal Tax Purposes," Joint Committee on Taxation, May 7, 2007, JCX-26-07.