

GUIDANCE ON INDEPENDENT CONTRACTOR VS. EMPLOYEE



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Are you ready to hire and need help deciding how to classify your workers? The U.S. Department of Labor, the IRS, and some state governments outline the guidelines related to independent contractors and employees. Navigating these guidelines can be tricky, but it will be to your advantage to gain an understanding of the differences between independent contractors and employees, because the fines for misclassification can be high. The following offers a brief explanation, but consultation with an HR Professional or attorney is highly recommended.

Independent Contractors

Independent contractors are not employees; they are self-employed individuals who sign a contract with a company to provide specific or specialized skills or services. While the employer provides a scope of work to be done and when it must be completed, they do not control how the work is done. For example, if a photographer hires a photo editor as an independent contractor, the photo editor can use whatever software he or she desires to complete the job (unless the contract specifically states that editing must be done in photoshop). Once completed, independent contractors submit an invoice for their work and payment is made with no payroll tax deductions. Independent contractors complete a form W-9 for tax purposes and are issued a Form 1099 at the end of the year to report their earnings.

Employees

Employees work directly for a company. Employers have more control over this work. They control what work is done and how the work is done, provide resources to get the work done (computer, software, phone, etc.), and sometimes offer training to give the employee the skills needed to do the work. Employees are paid through payroll with applicable federal and state payroll tax deductions. Employees complete a form W-4 for tax purposes and receive a W-2 at the end of the year to report their earnings.

[Click here for IRS Guidance on Independent Contractor or Employee](#)

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How Do I Decide?

Here are some questions you want to ask yourself when determining if the person you are hiring is an independent contractor or an employee.

- Is the individual providing services that your company already offers its customers?
- How much direction will you give on how and where the work is done?
- Will you provide training or do they already have the skills or expertise required to do the job?
- Will you provide the tools and resources to perform the work?
- How long will the project take and is it contract based?
- Will you control their work hours or just set the deadlines for the work's completion?
- Is the individual able to perform work for other companies or only for your company?
- What is required for the working relationship to be modified or ended?

Below is a cheat sheet that outlines some differences between independent contractors and employees.

INDEPENDENT CONTRACTOR	EMPLOYEE
<ul style="list-style-type: none">• Works for themselves, are set up as a business, receives 1099 at the end of the year• Decides how to do the work• Provides their own equipment and other resources required to perform work• Has skills and expertise to perform work• Better for short-term projects or specialized expertise• You will pay more money per hour, but the total project cost may be less	<ul style="list-style-type: none">• Works directly for a company, receives payroll check with applicable payroll tax deductions• Directs how the work will be done• Company provides equipment and resources to perform work• Company may provide training and development to give employees skills to perform work• Better for daily operations tasks or on going, long-term tasks• You pay a lower hourly rate, but overall cost may be higher due to length of employment and payroll taxes.