

**20 TAX FACTORS THAT TEND TO INDICATE EMPLOYER-EMPLOYEE OR INDEPENDENT CONTRACTOR STATUS:**

- 1. Control of when, where, and how the worker performs services.** Provision of instructions regarding when, where, and how the worker is to work is indicative of an employer-employee relationship. Independent contractors tend to have control of the time, place, and method at and by which the worker performs job obligations.
- 2. Training.** Training, requiring services to be performed with other workers, and requiring the worker to attend meetings, are indicative of an employer-employee relationship.
- 3. Integration into firm operations.** The integration of a worker's services into the operations of the business indicates the direction and control generally found in an employer-employee relationship.
- 4. Requirement that services be personally performed.** Limited identity of the service provider is indicative of an employer-employee relationship. Independent contractors are often not required to personally perform the services. However, there are exceptions and this factor alone is often not determinative.
- 5. Control over assistants.** An employer-employee relationship is indicated when the firm has the right to hire, supervise, and pay the worker's assistants.
- 6. Length of relationship.** A long-term continuing relationship indicates an employer-employee relationship. However, this factor alone is not enough to determine the degree and extent to which the employer exercises control.
- 7. Work schedule.** A worker given a set work schedule indicates the control of an employer in an employer-employee relationship.
- 8. Number of hours of service required.** The amount of time the worker is required to provide services to the employer is indicative of the worker's status. Full-time employment and firm control over time spent working are indicative of an employer-employee relationship. Provision of services part-time while performing services for others is indicative of lack of control, suggestive of an independent contractor relationship.
- 9. Location where services are performed.** The requirement that services be provided on the firm's premises suggests an employer-employee relationship. However, some types of services or work cannot be performed elsewhere, such as improvements to the firm's facilities. This factor alone is not determinative.
- 10. Control over technique or sequence.** Control of the order or sequence in which the worker performs required tasks suggests an employer-employee relationship exists. When the worker determines how and in what order tasks will be performed, it is less indicative of an employer-employee relationship.
- 11. Reports to firm.** Submission of regular or periodic oral or written reports suggests that there is a degree of control indicative of an employer-employee relationship. However, the requirement that progress reports be made might not be enough by itself to establish an employer-employee relationship.

- 12. Payment method.** The interval of payment may be indicative of an employer-employee relationship. Payments by the hour, week, or month suggest that an employer-employee relationship may exist. Payment by the job or invoices submitted by the worker are indicative of an independent contractor relationship.
- 13. Work-related expenses.** Payment of the worker's business and travel expenses suggests an employer-employee relationship. However, reimbursement of business and travel expenses pursuant to a contract might just be part of the arrangement between an independent contractor and the firm.
- 14. Tools.** Whether the worker is required to furnish her own tools is an important consideration. Provision of necessary tools and equipment by the firm suggests that there is an employer-employee relationship. However, the fact that a worker supplies or is required to supply her own tools and equipment is not necessarily determinative.
- 15. Work facilities.** Investment in and provision of work facilities by the worker, especially if of a type not generally maintained by employees, indicates an independent contractor relationship.
- 16. Profit and loss potential.** Workers likely to profit from the success of an enterprise and at risk of experiencing a loss on its failure are usually independent contractors. Workers paid a fixed rate based on time with no possibility of loss are more likely employees.
- 17. Multiple employers.** The presence of multiple employers, rather than employment by a single firm, is indicative of a worker having an independent contractor status.
- 18. Restrictions on customers and clients.** Workers who offer their services to the public on a regular, consistent basis are less likely to be employees than those with a single employer. Workers significantly restricted as to the identity of those for whom they can work are probably employees.
- 19. Termination of worker.** The firm's ability to terminate its relationship with the worker for any reason without penalty indicates an employer-employee relationship. The availability to the worker of penalties if termination is without cause may indicate more independence, as would be expected of an independent contractor.
- 20. Termination of relationship by worker.** The worker's ability to end the relationship at any time without penalty is indicative of an employer-employee relationship. Liability to the worker for terminating the relationship without cause or for reasons not permitted by the agreement may indicate an independent contractor relationship.