

# IRS 20 Factor Test

## Employee or Independent Contractor

**General Rule** – Individual is and Independent Contractor if Payer has right to control or direct only the result of the work & not the means & methods of accomplishing result

### Basic Question: Who Has Control over the work being done?

1. **Instructions** - Are Workers required to comply with others' instructions about when, where, and how they are to work?
2. **Training** - Training workers indicates that employers exercise control over the means by which results are accomplished (Employee)
3. **Integration** - Is the success or continuation of a business is dependent on the performance of certain services by workers and can not be separated?
4. **Services rendered personally** - Services must be rendered personally, (no substitution). As such, employers control both the means and the results of the work
5. **Hiring, supervising & paying assistants** - Control is exercised if employers hire, supervise, and pay assistants
6. **Continuing relationships** - Continuing relationships between workers and employers indicate that employer-employee relationships exist (not timerestricted)
7. **Set hours of work - Establishment of set hours of work by employers indicates control**
8. **Full-time required** - If workers must devote full time to employers' businesses, employers have control over workers' time. Independent contractors are free to work when & for whom they choose
9. **Doing work on employers' premises** - Control is indicated if the work is performed on employers' premises
10. **Order or sequences set** - Control is indicated if workers are not free to choose their own patterns of work but must perform services in the sequences set by the employers
11. **Oral or written reports** - Control is indicated if workers must submit regular oral or written reports to employers
12. **Payment by hour, week, or month** - Points to employer-employee relationships, provided that this method of payment is not just a convenient way of paying a lump sum agreed on as the cost of a job. I/Cs are usually paid by the job or on straight commission
13. **Payment of business and/or traveling expense** - Employers paying workers' expenses of this nature shows that employer-employee relationships usually exist
14. **Furnishing tools and materials** - If employers furnish significant tools, materials & other equipment, employer-employee relationships usually exist
15. **Significant investments** - Workers are independent contractors if they invest in facilities that are not typically maintained by employees (such as an office rented at fair market value from an unrelated party). Employees depend on employers for such facilities
16. **Realization of profits or losses** - Workers who realize profits/losses (in addition to P&L ordinarily realized by employees) are I/C. Workers who cannot are generally employees
17. **Working for more than one firm at a time** - If workers perform services for a number of unrelated persons at the same time, they are usually independent contractors
18. **Making services available to the general public** - Workers are usually I/C contractors if they make their services available to the general public on a regular and consistent basis
19. **Right to discharge** - The right of employers to discharge workers indicates that the workers are employees
20. **Right to terminate** - Workers are employees if they have the right to end their relationships with their principals at any time without incurring liability