

Tips for Using Independent Contractors

Here are some things you can do to help ensure that those who work for you qualify for independent contractor status, and that you can win any challenges to your arrangements:

- When establishing the relationship, avoid setting a regular pattern of daily or weekly hours. A self-employed individual presumably has the opportunity to select when and where he will work in relation to all his customers.
- Allow contractors to supply their own tools, supplies, and equipment wherever possible in the performance of the services required. This will demonstrate that there is a risk of loss as well as an opportunity for profit.
- Do not use the contractor's employees to perform the same jobs as your employees.
- Do not permit the contractor to supervise any of your employees.
- Do not require formal or informal company-provided training for the contractor or the contractor's employees.
- Do not require the contractor to perform services personally.
- Do not require the contractor to provide regular written or oral reports about the work in progress.
- Use contractors who normally advertise their services in some manner. Keep on file any business cards, circulars, or even telephone directory ads.
- Be careful, when advertising for independent contractors, not to place newspaper ads in the "Help Wanted" sections and to avoid using phrases such as salary, wages, or steady work. Instead, look for independent contractors who have placed their own ads under "Situations Wanted" or "Trade Services."
- Allow contractors to hire their own assistants, if necessary. Insist that the contractor pay the payroll taxes normally required for such employees.
- Don't include contractors under the insurance coverage for workers' compensation, health insurance, or other benefits that are provided for employees.
- If possible, compensate such independent contractors on a per-job basis rather than by hour or by week.
- Always ask for an invoice or statement before paying for any work that has been performed. If possible, make checks payable to a company rather than to an individual.
- Do not directly reimburse contractors for any expenses they might have, for gasoline, meals, etc. Such expenses should stand as part of the contractor's set fees.
- Remember that in theory you cannot discharge a contractor from employment. If dissatisfied with a contractor's performance, look to your contract for a remedy. If there is no contract, sever relations with the contractor by offering no more work.
- Put it in writing. It is best to have a contract in writing with an independent contractor. Although not conclusive, it can be used on your behalf to demonstrate the validity of an independent contractor relationship.