

## IRS Factors Introduction

One of the biggest tax challenges for companies is determining whether workers are employees or independent contractors. If a worker is an employee, then the employer is responsible for withholding income tax and the employee's portion of Social Security and Medicare tax from amounts paid to the worker. The employer is also responsible for paying over to the IRS the employer's portion of Social Security and Medicare tax.

On the other hand, the business is not responsible for any payroll taxes for independent contractors. Many companies believe that they can choose whether to treat any given worker as an employee or independent contractor. However, there are laws that determine whether the worker is an employee or an independent contractor. So the first step is to properly classify the worker.

An employee is an individual, who performs services for an employer, and who is subject to the employer's control regarding what will be done and how it will be done. If the employer retains the right to direct and control the means and details of the work, then the worker is an employee. This is called the right to direct and control.

In contrast, an independent contractor is an individual who performs services for an employer, but the employer controls only the result of the work, not the means and methods of accomplishing the result.

The IRS uses three characteristics to determine the relationship between businesses and workers:

- **Behavioral Control** covers facts that show whether the business has a right to direct or control how the work is done through instructions, training, or other means.
- **Financial Control** covers facts that show whether the business has a right to direct or control the financial and business aspects of the worker's job.
- **Type of Relationship** covers facts that relate to how the worker and the business owner perceive their relationship.

Businesses must weigh all these factors when determining whether a worker is an employee or independent contractor. Some factors may indicate that the worker is an employee, while other factors indicate that the worker is an independent contractor. There is no "magic" or set number of factors that make the worker an employee or an independent contractor, and no one factor stands alone in making this determination. Also, factors that are relevant in one situation may not be relevant in another.