

List of 20 Common Law Factors Used to Classify Workers

Note: The following list of common law factors with citations is adapted from Rev. Rul. 87-41.

1. *Instructions.* A worker who is required to comply with other persons' instructions about when, where, and how he or she is to work is ordinarily an employee. This control factor is present if the person or persons for whom the services are performed have the right to require compliance with instructions. See, for example, Rev. Rul. 68-598, 1968-2 CB 464.
2. *Training.* Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods, indicates that the person or persons for whom the services are performed want the services performed in a particular manner. See Rev. Rul. 70-630, 1970-2 CB 229.
3. *Integration.* Integration of the worker's services into the business operations generally shows that the worker is subject to direction and control (i.e., when the success or continuation of a business depends to an appreciable degree upon the performance of the worker's services). See *United States v. Silk*, 331 U.S. 704 (1947).
4. *Services Rendered Personally.* If the services must be rendered personally, presumably the person for whom the services are performed is interested in the methods used to accomplish the work. See Rev. Rul. 55-695, 1955-2 CB 410.
5. *Hiring, Supervising, and Paying Assistants.* If the person or persons for whom the services are performed hire, supervise, and pay assistants, that factor generally shows control over the workers on the job. Compare Rev. Rul. 63-115, 1963-1 CB 178 with Rev. Rul. 55-593, 1955-2 CB 610.
6. *Oral or Written Reports.* A requirement that the worker submit regular reports to the person for whom the services are performed indicates a degree of control. See Rev. Rul. 70-309, 1970-1 CB 199, and Rev. Rul. 68-248, 1968-1 CB 431.
7. *Payment by Hour, Week, Month.* Payment by the hour, week, or month generally points to an employer-employee relationship, provided that this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. Payment made by the job or on a straight commission generally indicates the worker is an independent contractor. See Rev. Rul. 74-389, 1974-2 CB 330.
8. *Payment of Business and/or Traveling Expenses.* If the person or persons for whom the services are performed ordinarily pays the worker's business and/or traveling expenses, the worker is ordinarily an employee. See Rev. Rul. 55-144, 1955-1 C.B. 483.
9. *Furnishing of Tools and Materials.* That the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship. See Rev. Rul. 71-524, 1971-2 CB 346.
10. *Significant Investment.* If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees, that factor tends to indicate the worker is an independent contractor. On the other hand, lack of investment in facilities indicates dependence on the person or persons for whom the services are performed, and thus the existence of an employer-employee relationship. See Rev. Rul. 71-524.
11. *Realization of Profit or Loss.* A worker who can realize a profit or suffer a loss is generally an independent contractor, but the worker who cannot is an employee. See Rev. Rul. 70-309. The risk that a worker will not receive payment for his or her services, however, is common to both independent contractors and employees.
12. *Working for More Than One Firm at a Time.* The fact a worker performs more than de minimis services for unrelated persons or firms at the same time generally indicates the worker is an independent contractor. See Rev. Rul. 70-572, 1970-2 CB 221. However, a worker who performs services for more than one person may be an employee of each.
13. *Making Services Available to General Public.* The fact a worker makes his or her services available to the general public on a regular and consistent basis indicates an independent contractor relationship. See Rev. Rul. 56-660.
14. *Right to Discharge.* The right to discharge a worker is a factor indicating that the worker is an employee and the person possessing the right is an employer. An independent contractor cannot be fired as long as he or she meets the contract specifications. Rev. Rul. 75-41, 1975-1 CB 323.
15. *Right to Terminate.* A worker's right to end his or her relationship with the person for whom the services are performed at any time without incurring liability indicates an employer-employee relationship. See Rev. Rul. 70-309.
16. *Continuing Relationship.* A continuing relationship between the worker and the person or persons for whom the services are performed indicates an employer-employee relationship exists. See *United States v. Silk*.
17. *Set Hours of Work.* The establishment of set hours of work by the person or persons for whom the services are performed indicates control. See Rev. Rul. 73-591, 1973-2 CB 337.
18. *Full Time Required.* If the worker must devote substantially full time to the business of the person or persons for whom the services are performed, such person or persons have control over the amount of time the worker spends working and by implication restrict the worker from doing other gainful work. See Rev. Rul. 56-694, 1956-2 CB 694.
19. *Doing Work on Employer's Premises.* If the work is performed on the premises of the person or persons for whom the services are performed, that factor suggests control over the worker. Rev. Rul. 56-660, 1956-2 CB 693. Control over the place of work is indicated when the one for whom the services are performed can compel the worker to travel a designated route, to canvass a territory within a certain time, or to work at specific places as required. See Rev. Rul. 56-694.
20. *Order or Sequence Set.* If a worker must perform services in the order or sequence set by the person or persons for whom the services are performed, that factor shows that the worker is not free to follow the worker's own patterns of work. See Rev. Rul. 56-694.