

Checklist for Determining If an Employer-Employee Relationship Exists

Generally, an employer-employee relationship exists under common law principles if the person performing the services is subject to the will and control of the person for whom the services are performed as to both what must be done and how it must be done.

Factors tending to demonstrate the existence of an employer-employee relationship	Yes	No	N/A
Person for whom services are performed has right to control and direct the result to be accomplished	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Person for whom services are performed has right to control and direct the means by which the result is to be accomplished	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Right of the employer to discharge the employee	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Furnishing of tools to the individual who performs the services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Furnishing a place to work to the individual who performs the services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employee's compliance with instructions about when, where, and how to work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Training to perform services in a particular manner	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Services integrated into business operations because the services are important to the success or continuation of the business	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Services rendered personally	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employee works for an employer who hires, supervises, and pays workers, including any assistants needed by the employee	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Continuing relationship with an employer, including work performed at recurring although irregular intervals	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Set hours of work established by an employer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Requirement that the individual work or be available full-time	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Work performed on the premises of an employer or on a route or at a location designated by an employer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Services must be performed in the order or sequence set by an employer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employee may be required to submit reports to an employer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Paid by the hour, week, or month	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Business and travel expenses paid by the employer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Factors tending to demonstrate the existence of an employer-employee relationship, continued

	Yes	No	N/A
Employee is normally furnished significant tools, materials, and other equipment by an employer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employer has the right to fire an employee	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employee can quit job at any time without incurring liability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Factors tending to establish that the person performing services for another is an independent contractor rather than an employee

	Yes	No	N/A
Independent contractors ordinarily use their own methods and receive no training from the purchasers of their services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Independent contractors ordinarily use their own methods and receive no training from the purchasers of their services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Independent contractor can hire, supervise, and pay assistants under a contract that requires him to provide materials and labor and to be responsible only for the results	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Independent contractor generally can set her own work hours	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Independent contractor is usually paid by the job or on a straight commission	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Independent contractor generally has a significant investment in the facilities he uses in performing services for someone else	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Independent contractor can make a profit or suffer a loss	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Independent contractor generally is free to provide her services to two or more unrelated persons or firms at the same time	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Independent contractor makes his services available to the general public	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Independent contractor cannot be fired so long as she produces a result that meets the specifications of the contract	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Independent contractor usually agrees to complete a specific job and is responsible for its satisfactory completion or is legally obligated to make good for failure to complete it	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>