



THERE IS NO SUCH THING AS A "1099 EMPLOYEE"!

Classifying Employees vs.
Independent Contractors

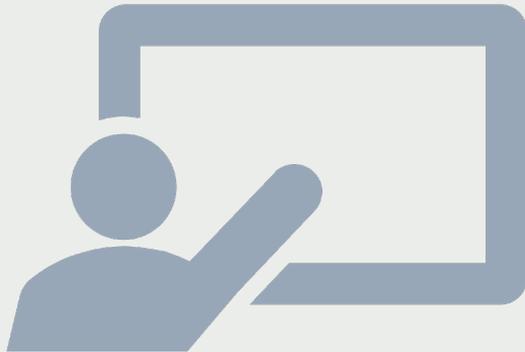
What's at stake?

- Workers compensation **liability**
- Department of Labor **liability**
- State governments **liability**
- Social Security Administration **liability**
- Prevent future **liability**

Let's Define The Roles

Common law recognizes 3 categories of evidence to consider when determining employee status:

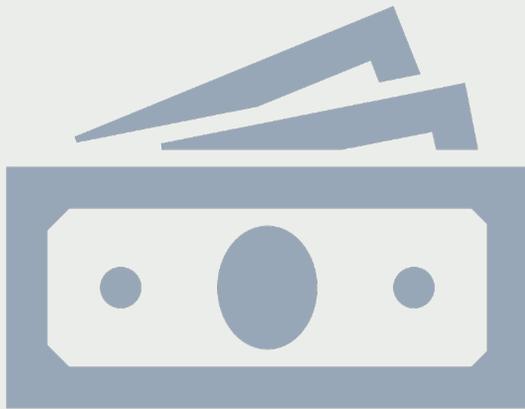
1. Behavioral control
2. Financial control
3. Relationship of the parties



Behavioral Control

Indicators:

- **Instruction**
- **Training**
- **Location of work**
- **Work Schedule**
- **Meetings**
- **Reports**
- **Providing services personally**



Financial Control

Indicators:

Equipment, tools, or facilities

Unreimbursed expenses

Profit motive

Frequency and timing of pay

Liability coverage



Relationship of the Parties

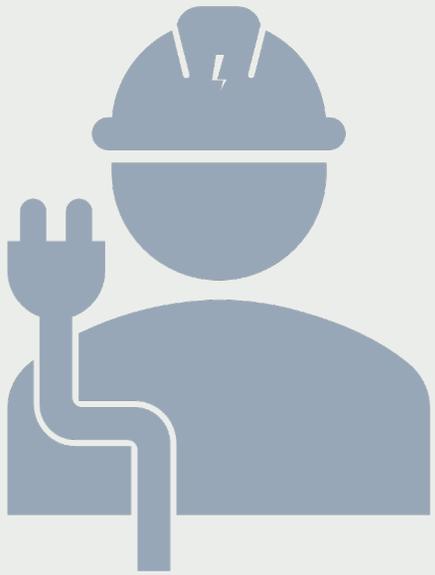
Indicators:

Benefits

Discharge/termination rights

Permanency

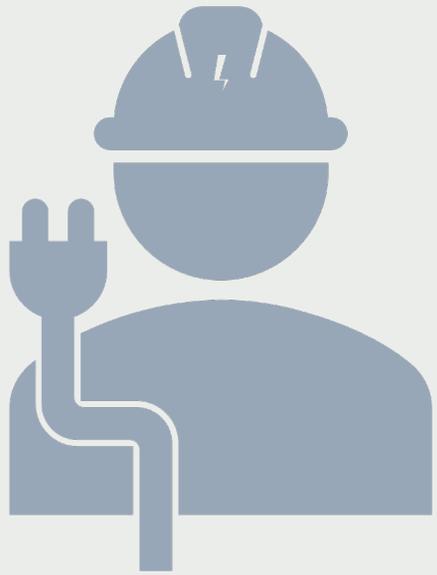
Integral function



Example: Independent Contractor

May retain the right to:

- Hire
- Manage and direct workers
- Substitute
- Pay substitute



Example: Employee

May retain the right to:

- Permanence
- Benefits
- Quit



Forms and Filing Requirements

Employee:

- Get W-4 prior to paying
- File Forms W-2 and W-3
- File Form 941 for employment tax withholding

Independent Contractor:

- Get W-9 prior to paying
- File form 1099-NEC and 1096
- Form 945 for backup withholding (when necessary)



Now What?

Define an employee

- The right to control and direct the individual
- Determine whether a worker is an employee or an independent contractor
- Three broad categories of evidence

Report payments to workers

- W-2 Wages or 1099-NEC



Resources

[Pre-recorded IRS Webinars \(click on Employers\)](#)

[Publication 15-A](#)

Reach out to us: we can point you in the right direction.



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