

Reference Sheet

Common Law Test: The IRS Common Law Test, which looks at behavioral control, financial control, and the relationship between the parties.

- Behavioral Control:

- Instructions: Does the company control or have the right to control what the worker does and how the worker does their job?
- Training: Does the company provide training to the worker? Employees are often trained to perform services in a particular manner.

- Financial Control:

- Significant Investment: Does the worker have a significant investment in the equipment they use in working for someone else?
- Expenses: Are unreimbursed business expenses incurred by the worker?
- Opportunity for Profit or Loss: Can the worker realize a profit or incur a loss?

- Type of Relationship:

- Contracts: Is there a written contract describing the relationship the parties intended to create?
- Benefits: Are employee-type benefits (e.g., insurance, pension plans) provided to the worker?
- Permanency: Is the relationship expected to continue indefinitely, rather than for a specific project or period?

IRS 20-Factor Test: The IRS uses a 20-factor test to determine the degree of control and independence. Key factors:

- **Instructions:** More detailed instructions indicate employee status.
- **Integration:** Workers whose services are integrated into business operations are likely to be employees.
- **Personal Service:** If services must be rendered personally, it suggests employee status.
- **Set Hours of Work:** If the company sets hours of work, it indicates employee status.
- **Full-Time Required:** If the worker must work full-time for the company, it suggests employee status.

Economic Realities Test: Examines factors like the degree of control, opportunity for profit/loss, investment in equipment, and the nature of the work. Used primarily by the Department of Labor to determine FLSA compliance:

- **Degree of Control:** The extent to which the company controls the work.
- **Opportunity for Profit or Loss:** The worker's opportunity to make a profit or incur a loss based on their skill.
- **Investment in Equipment:** The worker's investment in equipment or materials required for their task.
- **Skill and Initiative:** The degree of independent business organization and operation.
- **Permanence of Relationship:** The duration of the working relationship.
- **Nature of Work:** Whether the service rendered is an integral part of the company's business.

ABC Test: Used by some states for unemployment and workers' compensation purposes but is not specifically adopted by Iowa

- **A:** The worker is free from control and direction in performing the work, both under contract and in fact.
- **B:** The work performed is outside the usual course of the company's business.
- **C:** The worker is engaged in an independently established trade, occupation, or business.

Key Considerations

- Documentation: Keep thorough documentation of the factors considered in classification decisions.
- Consult Experts: When in doubt, consult with legal or tax professionals to ensure compliance.