

### **Independent Contractor versus Employee Checklist**

TO USE THE CHECKLIST, get a pen and paper ready. Write “15 points” at the top. Then answer each of the following questions, subtracting a point if necessary. The closer to zero points you are, the more likely your team member is a contractor. The closer to fifteen points, the more likely they are an employee.

1. Contractors work on specific projects for limited periods of time, like one year, rather than indefinitely. If your relationship is limited in time, subtract one point from 15. Otherwise, do nothing.
2. Contractors provide peripheral assistance to a business, rather than performing key functions that employees do. Subtract one point from your total if your contractor is not delivering the main offering your business sells to customers.
3. Contractors make significant investments in their businesses, while employees only purchase incidentals, like work clothes and shoes. Subtract one point if your contractor had to make investments in their business to deliver services to you.
4. Contractors have ongoing costs of doing business, even if they do not currently have clients. Employees do not have ongoing, work-related expenses if they are not working. If your team member has costs of doing business for things like supplies, software, and equipment, subtract one point from your total.
5. Contractors have a risk of loss or opportunity for profit in their business due to their managerial and marketing skills (for example, investing in tools and supplies that cost more than the amount of business they win), while employees do not. If your team member could lose money or turn a profit like a regular business, subtract one point from your total.
6. Contractors have availability to serve a market, evidenced by websites, advertising, and accepting other business opportunities, while employees are beholden to one employer and do not independently market their services. If your contractor could market their services to others, subtract one point from your total.
7. Contractors are paid by the project, by the hour (with a budget in advance), and in longer time increments than employees. Employees are usually guaranteed pay on a more frequent basis and in equal increments. If your team member is not paid a fixed sum on a weekly or biweekly basis, subtract one point from your total.

8. Employees following instructions on where, when, and how to work. Contractors decide that for themselves (although they may follow company policies on confidentiality, for example). If you are paying your contractor for an outcome, rather than the where, when, and how they work, subtract one point from your total.
9. Employees usually receive a high degree of instruction, training, and onboarding, while contractors do not. If you do not provide much instruction, training, or onboarding, subtract one point from your total.
10. Employees often receive periodic evaluations, which review how the work is performed. Contractors do not receive evaluations; instead, the contract will be terminated or renewed if they provided the expected outcome. If you do not evaluate your team members, subtract one point from your total.
11. Employees receive training to do a job a certain way. Independent contractors do the work their own way as professional business owners. If you do not provide training to your team members, subtract one point from your total.
12. Contractors maintain the right to hire others to help them deliver, while employees cannot independently hire someone else to help with their job. If your team members can hire their own team, subtract one point from your total.
13. Business owners (contractors) require special skills, including the initiative demonstrated by being in business for him or herself. Employees do not require special skills beyond their job duties. If your team members are self-starting people with specific, special skills different from basic job capabilities (i.e., simply being able to use a computer), subtract one point from your total.
14. Employees typically do not work under a contract unless they are a high-level executive, while contractors almost always work under contracts. If you will have a contract with your team member, subtract one point from your total.
15. Employees get benefits like insurance, time off, workmen's compensation if they are injured, and a variety of legal protections for breaks, protected classifications, and disabilities. Contractors purchase their own benefits and insurance as a business expense. If you do not provide benefits to your team members, subtract one point from your total.

How many points do you have left? There are no hard and fast rules, but if you have eight or more points, you will want to speak to your accountant or re-evaluate the relationship with your team member.