

Are your Independent Contractors really employees?

Service performed by an individual for compensation is *employment* **unless** it is shown that:

1. The individual is free from direction and control over the performance of the service; **and**
2. The service is either performed:
 - Outside of the usual course of business for which the service is performed, or
 - Outside of all the places of business of the enterprise for which the service is performed; **and**
3. The individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in service contract.

Or, as a separate alternative, service performed by an individual for compensation is *employment* **unless** it is shown that:

1. The individual is free from direction and control over the performance of the service; **and**
2. The service is either performed:
 - Outside the usual course of business for which the service is performed, or
 - Outside of all places of business of the enterprise for which the service is performed, or
 - The individual has a principal place of business and is responsible for the costs; **and**
3. The individual:
 - Is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the service contract, or
 - Has a principal place of business that is eligible for a federal income tax business deduction; **and**
4. On the effective date of the contract of service, the individual is responsible for filing a schedule of expenses with the Internal Revenue Service; **and**
5. On the effective date of the contract or within a reasonable period after the effective date of the contract, the individual has an:
 - Active account with the Department of Revenue,
 - Active account with any other state agencies, and
 - A Unified Business Identifier (UBI) number; **and**
6. On the effective date of contract of service, the individual is maintaining a separate set of books or records that reflect all items of income and expenses of the business that the individual is conducting.