



## Employee/Independent Contractor Questionnaire

**Instructions/Procedure:**

1. Complete parts I through V of this form.
2. Forward completed form to either Dave Soria in University Tax Services.
  - a. Please include, as an attachment to the completed form, a detailed description of the services the individual will be performing, a contract or agreement, if available, or any other information you believe would be helpful for University Tax Services to make a determination.
3. University Tax Services will review the completed form and make a determination as to the individual's classification within five business days and communicate the determination to the individual who submitted this form.

I. Preliminary Questions			
Question	Yes	No	
1. Has the individual been an employee of the university within the past 12 months?			
a. If yes, did the individual perform substantially the same services as an employee as they are being asked to perform as an independent contractor?			
2. Does the university plan to hire the individual as an employee immediately following termination as an independent contractor?			
3. Are university employees paid for essentially the same type of or similar services?			

II. Behavioral Control				
Question		Answer		Explanation
1.	Will the individual be trained by the university in order to perform the services?	Yes		If yes, then this would tend to lead to an employee classification.
		No		Generally, independent contractors have all requisite training necessary or provide for training at their own expense in order to hold themselves out as an expert in the area for which they are providing services.
2.	Is the individual instructed by the university as to when, where, and/or how the services are to be performed?	Yes		Receiving instruction by the university as to when, where, and/or how services are to be performed is a characteristic which tends to lead to an employee classification.
		No		Generally, independent contractors determine when, where, and/or how to perform services as they are assumed to be expert in the performance of the services. The university's only concern should be the end product a service provider is being contracted to produce.
3.	Will the individual be able to independently hire and supervise assistants?	Yes		Generally, if the university will not allow an individual to hire and supervise assistants it means that the university has control as to how the services will be performed, which would tend to lead to an employee classification.
		No		An independent contractor is generally free to hire, supervise, and pay for any assistants they believe are necessary to perform the services, given the number of clients or the workload the independent contractor may have.
4.	Will the individual be required to perform the services personally?	Yes		Requiring the individual to personally perform services would tend to lead to an employee classification.
		No		Generally, an independent contractor uses whomever they believe is necessary to perform services. For instance, an independent contractor may have a staff that performs some or all of the services. In an independent contractor classification, the university should not be concerned with who is performing the services, but rather in the end product of the services.
5.	Will the individual be required to provide regular progress reports?	Yes		Requiring an individual to provide regular progress reports tends to lead to an employee classification, as it denotes a level of control over the individual that independent contractors are not generally subjected to.
		No		Generally, independent contractors are only required to provide an end product. However, occasional status reports from the independent contractor, to ensure that work is progressing toward the desired end product, would not tend to lead to an employee classification.

6.	Will the individual be required to perform services in a manner prescribed by the university?	Yes	Requiring services to be performed in a prescribed manner is indicative of control by the university that tends to lead to an employee classification.
		No	Independent contractors are generally engaged to provide expertise regarding the services they will perform. This expertise includes the manner in which the services will be rendered. When engaging an independent contractor, the university should only be concerned with the end product of the services and not in the manner in which the end product was derived.
7.	Will the university require the individual to devote a prescribed amount of time to performing services?	Yes	Requiring a prescribed amount of time to performing services is indicative of control by the university that tends to lead to an employee classification.
		No	Generally, independent contractors determine the amount of time necessary to perform the services they will provide. When engaging an independent contractor, the university should only be concerned with the end product of the services and not in the amount of time it takes for the end product to be achieved.
8	Will the university supply the individual with any tools necessary to perform the services?	Yes	Providing tools necessary to perform services is indicative of an individual who is not in the business of providing the services they will perform. Generally employees rely on their employer to provide the tools necessary to perform services.
		No	Possession of their own tools is indicative of someone who is in the business of providing the services he or she is engaged to perform.
9.	Will the university set specific hours for performing services?	Yes	Setting hours, such as 9 to 5, is indicative of control by the university that tends to lead to an employee classification.
		No	Generally, independent contractors determine, in their sole judgment, their schedule and when they work on a specific project.
10.	Will the individual be required to perform the services on university premises?	Yes	Performing services on university premises is generally indicative of an employee classification, as most employees perform services on their employer's premises.
		No	Generally, independent contractors determine the place where services are performed. However, note that services of an independent contractor may need to be performed on university premises, due to the nature of the services being performed. For instance, services performed by a tradesman on a university building would, by its very nature, need to be performed on university premises.

III. Financial Control				
Question		Answer		Explanation
11.	Can the individual realize a profit or loss as a result of performing the services?	Yes		Generally, independent contractors bear the profit/loss risks based on the amount of revenue they receive from performing services for a client and all of the business related expenses they incur in the performance of the services. Generally only the service provider can answer this question.
		No		Employees generally do not realize either a profit or loss from the performance of services, since their employer is responsible for covering all business related expenses associated with the services the employee performs.
12.	Does the individual have a significant investment in the tools and instruments necessary to perform the services they will perform?	Yes		Generally, independent contractors are in the business of providing the services they perform and have made an investment significant enough to provide all of the tools and instruments necessary to perform such services.
		No		Generally, employees rely on their employer to provide the tools and instruments necessary to perform their duties.
13.	Does the individual make their services available to the general public?	Yes		Generally, independent contractors are in the business of providing their services to as many clients as possible.
		No		An employee generally only has one client for whom they perform services, their employer.
14.	Does the individual provide their services to more than one business?	Yes		Generally, independent contractors are in the business of providing their services to as many clients as possible.
		No		Employees generally perform services for one employer at a time. Although an employee may work for more than one employer, an employee generally works for each employer for a set period of time in an employer specified location.
15.	Is the individual paid on an irregular of contractual basis?	Yes		Generally, independent contractors are paid on an irregular basis, such as an agreed-to billing cycle or based on the progress made toward providing the end product of the services. An independent contractor's payment schedule is generally specified in an agreement with the client who engages their services.
		No		Employees are generally paid on a regular schedule, such as weekly or bi-weekly.
16.	Will the individual be reimbursed for business expenses?	Yes		Generally, independent contractors are responsible for paying their own business related expenses, since it is the independent contractor who bears the profit or loss risk.
		No		Employees are generally reimbursed for business related expenses by their employer, since it is the employer who bears the profit and loss risk.

IV. Relationship with the University				
Question		Answer		Explanation
17.	Will the individual's services be integrated into the university's business activities?	Yes		Employees generally perform services that are integral to their employer's business. These are generally services that are critical to the survival of the employer's business.
		No		Generally, independent contractors provide services that are special in nature and that are performed on either a one-time or infrequent basis. These services are generally not critical to the day-to-day survival of the client's business.
18.	Is there a written contract that sets forth of the terms and conditions of the services to be performed?	Yes		Generally, independent contractors will require an agreement with their clients that specifies the terms related to the providing of such services.
		No		Employees are generally employed "at will" by their employer, with no written agreement specifying the terms and conditions of the services they will perform.
19.	Does the university provide the individual with employee type benefits?	Yes		Employees are generally provided with certain benefits related to their employment, such as health and pension benefits.
		No		Independent contractors are generally responsible for providing their own benefits. Provision of their own benefits is part of the profit and loss risk an independent contractor assumes.
20.	Does the individual have a continued relationship with the university?	Yes		Employees may work for an employer for many years, which is indicative that they provide services that are critical to their employer's business (see also question 17, above).
		No		Generally, independent contractors provide services to a client on either a one-time or infrequent basis.
21.	Can the university terminate the individual at its discretion?	Yes		Employees are generally employed on an "at will" basis. As such, the employer is free to terminate an employee's employment as and when they see fit.
		No		An independent contractor's services can only be terminated based on the provision of the agreement that exists between them and the client. This ensures that, as long as the independent contractor fulfills the terms of the agreement, they will be paid for their services.
22.	Can the individual end their relationship with the university at their discretion?	Yes		An employee is generally free to end their employment relationship with an employer at any time without further obligation or penalties.
		No		An independent contractor who does not fulfill their obligations may be subject to a penalty per the agreement with the client or may be obligated to turn over the work for which the independent contractor has already been paid.

V. Submission Information	
Name of person completing form:	
College/School/Department:	
Date:	
Signature:	
Contact phone number:	
Contact email:	

VI. Determination (University Tax Services Only)	
Hire as an employee	
Hire as an independent contractor	
Rationale for determination:	

VII. University Tax Services	
Name of person making determination:	
Date:	
Signature:	

If you have any questions about completing this form or about service provider classification in general, please contact either:

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