

## IRS TWENTY FACTOR TEST

### FACTOR 1 – No Instructions

Independent Contractors are not required to follow, nor are they furnished with instructions to accomplish a job.

### FACTOR 2 – No Training

Independent Contractors typically do not receive training. They use their own methods to accomplish the work.

### FACTOR 3 – Work not essential to the hiring firm

A company's success or continuation should not depend on the service of an Independent Contractor. An example of this is Instructors at a University or Lawyers at a law firm.

### FACTOR 4 – Services don't have to be rendered personally

Independent Contractors are hired to provide a result and usually have the right to hire others to do the actual work

### FACTOR 5 – Set own work hours

Independent Contractors set their own work hours and don't have to abide by the working hours of the hiring firm.

### FACTOR 6 – Not a Continuing Relationship

Independent Contractors usually do not have a continuing relationship with a hiring firm. The relationship can be frequent, but it must be at irregular intervals, on call or whenever work is available. Warning: Part-time, seasonal or short-duration relationships have nothing to do with Independent Contractor status.

### FACTOR 7 – Control their own Assistants

Independent Contractors shouldn't hire, supervise or pay assistants at the direction of the hiring firm. If assistants are hired, it should be at the Independent Contractor's sole discretion.

### FACTOR 8 – Time to pursue other work

Independent Contractors should have enough time available to pursue other gainful work.

#### FACTOR 9 – Decide on job location

Independent Contractors control where they work. If they work on the premises of the hiring firm, it is not under that company's direction or supervision.

#### FACTOR 10 – Order of work act

Independent Contractors determine the order and sequence they will perform the work.

#### FACTOR 11 – No Interim Reports

Independent Contractors are hired for the final result and therefore should not be asked for progress or interim reports.

#### FACTOR 12 – Paid by job

Independent Contractors should be paid a flat fee after completion of the job or project. They should not be paid an hourly wage. Personal expenses should be included in the flat fee.

#### FACTOR 13 – Work for multiple firms

Independent Contractors often work for more than one firm at a time.

#### FACTOR 14 – Pay business expenses

Independent Contractors generally are responsible for their own incidental expenses, including travel.

#### FACTOR 15 – Have own tools

Independent Contractors usually furnish their own tools and equipment.

#### FACTOR 16 – Significant investment in their business

Independent Contractors should be able to perform their services without the hiring firm's facilities (equipment, office furniture, machinery etc.). The Independent Contractor's investment in his/her trade should be real, essential and adequate.

#### FACTOR 17 – Offer services to general public

Independent Contractors make their services available to the general public by one or more of the following:

- Having an office
- Having assistants
- Having business signs
- Listing their service in a business directory
- Advertising their service

FACTOR 18 – Can make entrepreneurial profit or loss

The following five circumstances show that profit or loss is possible for an Independent Contractor:

- The Independent Contractor hires, directs and pays assistants;
- The Independent Contractor has his/her own office, equipment, materials and/or facilities;
- The Independent Contractor has continuing and reoccurring liabilities;
- The Independent Contractor has agreed to perform specific jobs for fees agreed upon in advance;
- The Independent Contractor's services affect his/her own business reputation.

FACTOR 19 – Can't be fired at will

Independent Contractors cannot be fired as long as they produce a result which meets the contracted specifications.

FACTOR 20 – Independent Contractors are responsible for the satisfactory completions of a job or they may be legally obligated to compensate the hiring firm for failure to complete.