

Employee vs. Independent Contractor – A Few Guidelines

There are several factors that are consistently considered in making a determination if a worker is an employee or an independent contractor. These factors include but are not limited to:

1) The level of control over the workers activities that is exercised by the employer.

- Will you determine when, how and where the work will be completed? The less control you have, the more likely your designer is an independent contractor. If you have the option in any way, shape or form to control the employee's time and how they complete the work then they are not considered a contractor.

2) Whether the worker supplies tools and equipment

- Do you provide any staging tools or is the responsibility of the stager to purchase and provide their own? If they provide their own it is more likely they are an independent contractor.

3) Whether the worker can subcontract or hire assistants

- Can the person who is working for you independently hire an assistant or subcontract out the work you have asked them to do? If the answer is no, then as you may be assuming by now, you have yourself an employee.

4) The degree of financial risk undertaken by the worker

- If a designer covers his or her operating costs (i.e.; equipment costs or travel costs) this increases the financial risk and is more commonly associated with an independent contractor

5) The degree of responsibility for investment and management resting in the hands of the worker

- Does the designer retain the ability to make business decisions such as the right to invest in staff or individuals? Do they have any capital invested in their business?

6) The workers opportunity for profit or loss arising from the work

- Can the worker realize a profit or incur a loss? Is the worker paid a flat fee and incurs any expenses as a loss?

The relative weight of these factors and any others will depend on the particular circumstances in the case at hand.

*This is form is for information purposes only and should not be relied upon solely. Seek independent legal advice for all matters relating to the CRA or IRS or contact these agencies directly. Fine Redesign makes no assurances or warranties with respect to the accuracy of the information contained herein