

# EMPLOYEE VS. CONTRACTOR

	Yes	No	Net?
Service provider is an entity rather than an individual.	+1	-1	
If an entity, service provider has other employees?	+1	-1	
More than three employees?	+1	0	
Service provider has other customers?	+2	-1	
Is service provider a full-time student?	+1	-1	
<i>Company allows service provider to work any hours-or-service provider's choosing?</i>	+1	-1	
Service provider has a sleeping bag in company's office and works long hours?	+2	-2	
<i>Service provider is permitted to work at home or at location of his/her choosing (i.e., not required to be in contracting attorney's office)?</i>	-4	+1	
<i>Contracting attorney is concerned only about the result of service providers work and does not direct the manner in which the work is carried out?</i>	+1	-1	
Service provider is sophisticated enough to pay its own quarterly tax estimates?	+1	-1	
Service provider receives payment by the job done / hours worked not fixed payments on a regular basis?	+1	-1	
Service provider has his/her own health insurance?	+1	-1	
Contracting attorney does not need to provide substantial training to service provider?	+1	-1	
Is it a fixed and short-term engagement (e.g., summer months)?	+1	-1	
Service provider can do his/her work without the presence of contracting attorney or others on contracting attorney's behalf?	+1	-1	
Service Provider has never brought an employment-related lawsuit or other type of claim against anyone in the past?	+1	-1	
<i>Service Provider has never brought an employment-related lawsuit or other type of claim against anyone in the past?</i>	+1	-3	
<b>Total?</b>			

If your score is not at least 12, you may have inadvertently created an employment relationship.

If you answered **no** to anything in *italics*, even if your score was 14, you may have the appearance of an employment relationship.

Each state and the IRS have their own rules and their own way of interpreting the rules. So, you need to consult with local counsel before paying someone as an independent contractor.