

## Employee vs. Independent Contractor Checklist

When contracting for services, you must evaluate whether the Internal Revenue Service (IRS) would consider the person providing the services an independent contractor or a University employee. There are financial consequences to University if the IRS determines that University misclassified an individual.

An independent contractor is a person or business entity which:

- is free from the University’s immediate direction and control in their performance of the services
- is responsible to University only for the contracted result of the work, not the manner or method used to accomplish the work
- solely controls and directs how the service is provided, who provides it, and the means used to provide the service
- sets his/her own prices for goods and fees for service
- can terminate contract while not terminating his/her business
- can terminate contract while not creating an unemployment situation
- uses advertising to promote their business
- provides goods and/or services to a segment general public of their own choosing

When contracting for services you should use the following checklist, which compares employee characteristics with those of an independent contractor.

<b><u>EMPLOYEE</u></b>	<b><u>INDEPENDENT CONTRACTOR</u></b>
<input type="checkbox"/> Directed and controlled by the University	<input type="checkbox"/> Independent
<input type="checkbox"/> Does tasks in the manner the University requests	<input type="checkbox"/> Does tasks in his/her own way
<input type="checkbox"/> Does not have a financial investment in the work they are providing for the University	<input type="checkbox"/> Assumes the costs associated with doing the work for the University
<input type="checkbox"/> The University provides tools, equipment, and skills training	<input type="checkbox"/> Comes to the job with required tools, equipment, skills
<input type="checkbox"/> The individual works under University’s business license	<input type="checkbox"/> The individual obtains his or her own business license
<input type="checkbox"/> Often receives benefits beyond payment for service (retirement and health plans)	<input type="checkbox"/> Receives only payment for service
<input type="checkbox"/> Receives a net check. The University withholds income tax and FICA taxes.	<input type="checkbox"/> Receives a gross amount check. Pays own taxes
<input type="checkbox"/> Works at the University’s place of business	<input type="checkbox"/> Works at his/her own office or home
<input type="checkbox"/> Works the hours set by the University	<input type="checkbox"/> Sets his/her own hours
<input type="checkbox"/> Does not advertise services	<input type="checkbox"/> Provides services to multiple entities
<input type="checkbox"/> Eligible for workers’ compensation benefits	<input type="checkbox"/> Has customers as a result of advertising and being known by the public as a business
<input type="checkbox"/> Has some rights prior to termination	<input type="checkbox"/> Not covered by the University’s workers’ compensation
<input type="checkbox"/> Covered by minimum wage and overtime laws	<input type="checkbox"/> No rights prior to termination unless contracted
	<input type="checkbox"/> Paid as contracted; no overtime

If you need help making a determination, please contact General Accounting by email at [accounting@memphis.edu](mailto:accounting@memphis.edu) or by phone at (901) 678-3831.