

# Employee vs. Independent Contractor

*Adapted from IRS Summertime Tax Tip 2009-20.*

Whether you hire people as independent contractors or as employees will impact how much your nonprofit pays in employment taxes and the amount of taxes you withhold from their paychecks. Additionally, it will affect how much additional cost your organization must bear, what documents and information they must provide to you, and what tax documents you must give to them.

Here are the top ten things every nonprofit should know about hiring people as independent contractors versus hiring them as employees.

1. Three characteristics are used by the IRS to determine the entity's relationship with workers: Behavioral Control, Financial Control, and the Type of Relationship.
2. Behavioral Control covers facts that show whether you have a right to direct or control how the work is done through instructions, training or other means.
3. Financial Control covers facts that show whether you have a right to direct or control the financial and business aspects of the worker's job.
4. The Type of Relationship factor relates to how the workers and the nonprofit perceive their relationship.
5. If you have the right to control or direct not only what is to be done, but also how it is to be done, then your workers are most likely employees.
6. If you can direct or control only the result of the work done -- and not the means and methods of accomplishing the result -- then your workers are probably independent contractors.
7. Employers who misclassify workers as independent contractors can end up with substantial tax bills. Additionally, they can face penalties for failing to pay employment taxes and for failing to file required tax forms.
8. Workers can avoid higher tax bills and lost benefits if they know their proper status.
9. Both employers and workers can ask the IRS to make a determination on whether a specific individual is an independent contractor or an employee by filing a Form SS-8 – Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding – with the IRS.

10. You can learn more about the critical determination of a worker's status as an Independent Contractor or Employee at [IRS.gov](https://www.irs.gov). Additional resources include IRS Publication 15-A, Employer's Supplemental Tax Guide, Publication 1779, Independent Contractor or Employee, and Publication 1976, Do You Qualify for Relief under Section 530? These publications and Form SS-8 are available on the IRS Web site or by calling the IRS at 800-829-3676 (800-TAX-FORM).