

Worker Classification Guidance

This playbook provides guidance on how to differentiate between employees and independent contractors, as well as the legal implications of each classification.

Step 1: **Define Criteria**

Establish the criteria used by the IRS and other relevant bodies to distinguish between employees and independent contractors. This commonly involves evaluating the degree of control and independence through factors such as behavioral control, financial control, and the nature of the relationship.

Step 2: **Evaluate Control**

Assess behavioral control by looking at how much instruction and direction the company provides to the worker. More detailed instructions about when and where to work, what tools to use, or where to purchase supplies and services indicate an employee relationship.

Step 3: **Assess Independence**

Examine financial control by considering the investment in equipment, the opportunity for profit or loss, and how the worker is paid. A worker who has a significant investment in their tools and is paid a flat fee for a job might be an independent contractor.

Step 4: **Review Relationship**

Analyze the nature of the relationship by looking at contracts, benefits such as vacation or insurance, permanency of the relationship, and extent services are a key aspect of the business. Employees usually have more permanent relationships and receive benefits.

Step 5: **Document Classification**

Document your classification decision for each worker based on the criteria assessed. Keep records of the factors used in your determination in case of an audit.

General Notes

IRS Guidelines

When classifying a worker, it's vital to refer to IRS guidelines and use Form SS-8 if classification is uncertain.

State Laws

Be aware of the specific laws and guidelines in your state as they might have additional criteria for worker classification.