

Are You an Employer of a Caregiver?

The Independent Contractor Report shares twenty factors from the IRS to assist in determining whether or not you are considered the employer for a caregiver:

1. **Instructions:** Employees are workers required to comply with another person's instructions about when, where, and how they are to work; specifically, if you have the RIGHT to require compliance with instructions, then you are the employer.
2. **Training:** Training implies a worker is an employee. If you trained your caregiver in any way, you are the employer.
3. **Integration:** Evidence of direction and control is confirmed by how much the continuation of a business depends upon the performance of certain services.
4. **Services rendered personally:** Requiring the services be rendered personally indicates you are interested in the methods used to accomplish the work, as well as in the results. This makes you the employer.
5. **Hiring, supervising, and paying assistants:** When someone hires a worker and then hires assistants for the worker, there is an implied employer-employee relationship between the owner and the worker. If the worker hires his or her own assistants in order to fulfill a contract with the business owner, the implication is that the worker is a contract worker.
6. **Continuing relationship:** An employer-employee relationship exists if there is a continuing relationship between the worker and the client, even if work is performed at irregular intervals.
7. **Set hours of work:** Control is confirmed if the business owner establishes set hours of work control. You are the employer if you set the working hours.
8. **Full-time required:** An independent contractor is free to work when and for whom he chooses. If the worker dedicates a full-time schedule to the business owner, this implies the worker is restricted from doing other gainful work and becomes an employee.



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9. **Doing work on employer's premises:** Control over the worker may be indicated if the work is performed on the premises of the business owner, especially if the work could be done elsewhere. While having an office off the premises indicates some freedom from control, this fact by itself doesn't mean the worker isn't an employee. If you have the right to compel the worker to travel a designated route, to canvass a territory within a certain time, or to work at specific places as required, control is confirmed.
10. **Order or sequence set:** Control is suggested if a worker must perform services in the order set by the business owner—making you the employer.
11. **Oral or written reports:** Requiring workers to submit regular or written reports to you indicates control and makes you the employer.
12. **Payment by hour, week, month:** An employer-employee relationship is suggested when the worker is paid by the hour, week, or month. Payment made by the job or on straight commission generally indicates the worker is an independent contractor.
13. **Payment of business and/or traveling expenses:** If the business owner pays the worker's business and traveling expenses, the worker is an employee.
14. **Furnishing of tools and materials:** If the business owner furnishes tools, materials, and other equipment, this implies an employer-employee relationship.
15. **Significant investment:** If the worker invests in facilities he or she uses for performing services, this tends to indicate the worker is an independent contractor.
16. **Realization of profit or loss:** If a worker can realize a profit or suffer a loss from services provided, he or she is generally an independent contractor. A worker who can't is an employee.
17. **Working for more than one firm at a time:** If a worker performs services for several unrelated persons or firms at the same time, that factor generally indicates the worker is an independent contractor.
18. **Making service available to general public:** Making services available to the general public on a regular and consistent basis indicates an independent contractor relationship.
19. **Right to discharge:** The right to discharge a worker indicates the worker is an employee and the person with this right is an employer. An independent contractor can't be fired if they meet the contract specifications.
20. **Right to terminate:** If the worker has the right to end his or her relationship with the business owner at any time without incurring liability, that factor indicates an employer-employee relationship.

Information from IRS.gov