To determine whether a worker is an employee or independent contractor, you should apply the common law test of control. Under this test, if you have the right to control and direct what a worker does and how he or she does it, a relationship between you and the employee exists. In the absence of such control, a worker may be classified as an independent contractor.

To determine whether control exists in an employee-employee relationship, the IRS uses the following 20 common law factors:

1) Required compliance with employer's instructions;
2) Training of worker by employer;
3) Integration of worker's services into employer's business operations;
4) Services required to be rendered personally;
5) Hiring, supervising, and paying worker's assistants;
6) Continuing relationship;
7) Set hours of work;
8) Full-time work required;
9) Working on the employer's premises;
10) Set order or sequence of work;
11) Required oral or written reports;
12) Payment by hour, week or month;
13) Payment of business expenses and/or travel expenses;
14) Furnishing of tools and materials;
15) Significant investment by the worker;
16) Realization of profit or loss;
17) Working for more than one firm or company at a time;
18) Making services available to the general public;
19) Right of employer to discharge;
20) Right of worker to terminate.

(See Contracting for Professional Services, Section 3.5)

* as defined by the Internal Revenue Service