



CLINTON COUNTY DEPARTMENT OF PERSONNEL

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CLINTON COUNTY CIVIL SERVICE INFORMATIONAL MEMO #5 (8-09)

TO: All Clinton County Municipal Employers
FROM: Clinton County Department of Personnel
RE: Contractor or Employee

To help distinguish between employees and independent contractors, the IRS has set up three general criteria: We use these guidelines to distinguish between an independent contractor and an employee. If a person is an employee in the classified service of an agency, the agency must appoint them according to New York State Civil Service law. It is important to note that the IRS assumes that a worker is an employee.

Basically, an independent contractor is an independent business person who runs his or her own business but who does work for another business. The "employer" does not make Social Security/Medicare deductions, and the independent contractor must pay his or her own "self-employment taxes" along with income tax on earnings. An employee, on the other hand, is hired by a company to perform specific work at the direction of the employer and the employer does make Social Security/Medicare deduction and makes deductions for income tax on earnings.

Behavioral Control

If an employer trains and directs work, including hours of work, what tools or equipment to be used, specific tasks to be performed and how the work is to be done, the worker is likely an employee. If the worker can set his or her own hours and works with little or no direction or training, he or she is probably an independent contractor.

Financial Control

This factor includes how the worker is paid, whether the worker may work for others at the same time, and whether the worker can incur a profit or loss. A worker, who is paid a salary, is restricted from working for others, and who does not participate in company profits or losses, is probably an employee.

Type of Relationship

The presence of a specific contract may indicate an independent contractor, but this factor alone is not controlling. If the worker is entitled to benefits, this would indicate an employment relationship. Another factor would be the type of work the person does; if it is directly related to the company's core work, he or she is probably an employee. For example, a maintenance worker would not be doing 'company' work if he or she were working for a bank.