

INDEPENDENT CONTRACTORS VS EMPLOYEES

If you're ready to hire more help for your business, you may wonder whether you should hire an independent contractor or an employee. The distinction between whether a worker is an employee or an independent contractor has important tax consequences. How you classify an employee affects his/her federal income tax, Social Security benefits and Medicare taxes. The classification also affects eligibility for employer and Social Security benefits.

The state of New Hampshire has a list of criteria that is used to determine, by law, whether a person is an employee or contractor. See this list of criteria here:

http://www.labor.state.nh.us/CriteriatoEstablishanEmployeeorIndependentContr_010108.pdf

At the federal level, the Internal Revenue Service considers certain workers as employees by for the purposes of the Federal Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA), or for federal income tax withholding from wages.

Where there is no controlling statute, a worker's status is determined by applying the *common law test*, which applies for purposes of FICA, FUTA, federal income tax withholding and the Railroad Retirement Tax Act. A worker's status under the common law test is determined by three main things: Whether you—as the business—have behavioral control over that person; whether you have financial control; and the type of relationship itself.