

**INDEPENDENT CONTRACTOR OR EMPLOYEE?**  
**THE “ECONOMIC REALITIES” TEST<sup>1</sup>**

<b>FACTOR TO CONSIDER</b>	<b>INDICATIVE OF INDEPENDENT CONTRACTOR STATUS</b>	<b>INDICATIVE OF EMPLOYEE STATUS</b>
Work performed is integral part of employer’s business	Software Developer creates computer program for medical device company for purposes of tracking sales.	Software Developer works for company that develops computer software as its main business.
Worker’s managerial skill affects worker’s opportunity for profit or loss	Marketing Coordinator advertises marketing services independently, actively initiates meetings with various companies, negotiates contracts and terms of services, and periodically hires additional staff to assist with marketing projects.	Marketing Coordinator accepts all company assignments, consistently agrees to work additional hours at company’s request, does not advertise independently, and does not actively recruit clients other than company.
Relative investments of worker and employer	Graphic Designer purchases high level computers, printers and ink, and rents storage space for equipment.	Company provides Graphic Designer with computers, printers, ink, and has Graphic Designer work on Company premises.
Whether work performed requires independently exercised special skills and initiative	Technician inspects company medical devices in hospital on a regular monthly basis as agreed in advance by Technician and company; Technician orders parts as per independent evaluation, fixes equipment as Technician determines appropriate, and reports to company as to any suggested modifications.	Technician inspects company medical equipment on an as-needed basis as directed by company, reports back to company as to results, and company orders parts determined as necessary by company in order for technician to fix equipment.
Whether relationship between individual and employer is for specific time period or is open-ended	Computer Engineer is hired for distinct project of developing software for company’s educational gaming system, and once software is developed Computer Engineer’s services will no longer be needed by company.	Computer Engineer is hired to develop company’s cyber security software, as well as to monitor bugs in such software going forward for indefinite period of time.
Nature and degree of control employer has over worker	Billing Administrator works from independent office as per own schedule to facilitate company bills to customers, and uses Billing Administrator’s own billing system.	Billing Administrator works in company office on fixed days, and prepares bills for customers as per company guidelines and specific company approved billing templates.

<sup>1</sup> The purpose of this chart is to set forth illustrative examples, but not to provide actual legal guidance as to specific situations encountered by companies with respect to the process of classifying workers as employees or as independent contractors. Legal counsel should be consulted with respect to any specific situation in order to evaluate the complexity of various factors and the particular circumstances.