

## Independent Contractor vs. Employee Checklist

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**This document is not exhaustive and is provided for informational purposes only. The checklist should NOT be used for the purposes of employment classification. The UDC Office of Human Resources provides specific guidance on employee classification.**

In general, an individual is an independent contractor if UDC has the “right to control or direct only the result of the work and not the means and methods of accomplishing the result.”<sup>1</sup>

If an employee is mistakenly classified as an independent contractor and the employer has no reasonable basis for doing so, UDC may be held liable for employment taxes for that worker. See IRS Publication 15A, Employer's Supplemental Tax Guide. The presumption of the IRS is that an individual is an employee rather than an independent contractor. The IRS training materials for tax examiners contain 160 pages of detailed information about how to classify a worker.

Below is a sample of the factors to be considered when trying to determine whether a worker is an employee or independent contractor:

- What is the job title, and what is the worker's business or professional title?
- Is there a continuing working relationship between the university and the worker (even if it is on a part-time basis or seasonal in nature) or is the work is only for a short time on a one-time basis?
- Will UDC have a right to direct or control or supervise this worker? (e.g., how, where, and when to do the work, what tools to use, where to buy supplies, etc.)
- Is the person going to be doing the type of work substantially like that someone currently employed by the university already does regularly in his/her job? Will the person be working with other employees of the university?
- Is the University providing this person with office space, a phone, a computer or other equipment or supplies?

If the answer to any of these questions is “Yes,” the worker may be an employee rather than an independent contractor. Contact the Office of Human Resources for more information.

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<sup>1</sup> See page 4, IRS Publication 15-A (2009)