The individual is an independent contractor if the individual meets three (3) or more elements:

- The individual is not an employee, not an independent contractor.
- The individual meets three (3) elements. STOP.
- The individual is an independent contractor based on the usual course of business for which the work is performed.
- The individual is responsible for the selection of the individual.
- The individual is responsible for and accepts the risk of loss of the work.
- The individual is responsible for the cost of the work.
- The individual is responsible for the conduct of the work.
- The individual is responsible for the payment of the work.

Yes: Move to step 7.
No: Does the individual have the essence of an independent contractor?

Yes: Move to step 6.
No: Stop. The individual is an employee, not an independent contractor.

Does the individual make his or her services available to some other employer or customize community even if he is required to do so is voluntarily not exercised or proportionally restricted?

Yes: Move to step 6.
No: Stop. The individual is an employee, not an independent contractor.

Does the individual hire helpers, assistants, supervisors, the dealers?

Yes: Move to step 5.
No: Stop. The individual is an employee, not an independent contractor.

The extent that these assistants may be employees, supersede the dealers.

Yes: Move to step 5.
No: Stop. The individual is an employee, not an independent contractor.

Does the individual hire and pay his or her assistants (if any) and to whom?

Yes: Move to step 4.
No: Stop. The individual is an employee, not an independent contractor.

Step 3: Is the individual customarily engaged in an independent operation of his or her trade or business?

Yes: Move to step 3.
No: Stop. The individual is an employee, not an independent contractor.

Step 2: Does the work exceed the essential right to control the means and process of the work?

Yes: Move to step 2.
No: Stop. The individual is an employee, not an independent contractor.

Step 1: Is the individual free from direction or control of the employing entity?

Help with properly classifying Workers.

Sample Effective December 31, 2012
How to Determine Independent Contractor Status under the New Employment

Elements:

- The individual is not an employee, not an independent contractor.
- The individual meets three (3) or more elements. STOP.
- The individual is an independent contractor based on the usual course of business for which the work is performed.
- The individual is responsible for the selection of the individual.
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