

**STATE OF CONNECTICUT
EMPLOYMENT SECURITY DIVISION
UNEMPLOYMENT COMPENSATION TAX DIVISION**

**SELF-ASSESSMENT OF THE EMPLOYER-EMPLOYEE RELATIONSHIP FOR CT
UNEMPLOYMENT TAXES**

The determination of independent contractor status versus employee status is often a complex decision. Connecticut unemployment law states that employment is any service performed under an express or implied contract of hire that creates the relationship of employer and employee. Workers who are employees under the common law definition of master and servant (the standard applied by the Internal Revenue Service) are therefore covered for state unemployment purposes. In Connecticut however, irrespective of whether the common law relationship of master and servant exists, the law holds that service will be considered employment subject to the act unless the service recipient can establish compliance with Connecticut General Statutes Section 31-222(a)(1)(B)(ii), commonly referred to as the ABC test which is outlined below.

To be considered an independent contractor, an individual must meet all three of the following tests.

- A. The worker must be free from direction and control in the performance of the service, both under the contract of hire and in fact. (Essentially, this is the common law definition.)

AND

- B. The worker's services must be performed:

EITHER

- (1) Outside the usual course of the employer's business

OR

- (2) Outside all of the employer's places of business.

AND

- C. The worker must be customarily engaged in an independently established trade, occupation, profession or business of the same nature as the service being provided.

It is important to note that test A above will not be satisfied if the person or persons for whom the service is performed retain the right to exercise direction and control over the service, even when the right is not used. Also, bear in mind that an individual who forms a business in response to an offer of work as an independent contractor will meet neither the "customarily engaged" nor the "independently established" criteria of test C.

The following form is designed to allow you to perform a self-examination of the status of workers in your business whom you consider to be independent contractors.

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The determination of a worker’s status is both technical and complex. This self-assessment is designed only as a guide; it is not an official Department of Labor form. If you have questions concerning the employee versus independent contractor status of a worker please contact you local Unemployment Compensation Field Audit Unit in any one of the areas listed below:

| | | | | | |
|------------|--------------|-------------|--------------|-------------|--------------|
| Bridgeport | 203-455-2725 | Hartford | 860-256-3725 | Norwich | 860-859-5700 |
| Danbury | 203-797-4148 | Middletown | 860-754-5130 | Torrington | 860-626-6221 |
| Enfield | 860-741-4285 | New Britain | 860-827-7063 | Waterbury | 203-437-3400 |
| Hamden | 203-859-3325 | New London | 860-439-7550 | Willimantic | 860-723-2689 |

As an aid to determining whether an individual is an employee (EE) under the common law rules or an independent contractor (IC), twenty factors or elements have been identified as indicating whether sufficient control is present to establish an employer - employee relationship. These twenty factors have been developed based on an examination of cases and rulings considering whether an individual is an employee.

These twenty factors are designed only as guides for determining whether an individual is an employee. The degree of importance of each factor varies depending on the specific situation. **No single fact or small group of facts is conclusive evidence of the presence or absence of control.** There will be situations where some factors do not apply. Careful scrutiny is required to assure that formalistic aspects of an arrangement designed to achieve a particular status do not obscure the actual substance of the arrangement. (That is, if the relationship of employer-employee exists, the designation of the relationship by the parties as anything other than that of employer-employee is immaterial.)

THE COMMON LAW IS ALSO TEST “A” OF THE “ABC” TEST FOR CT UNEMPLOYMENT

| # | FACTOR | DESCRIPTION | EE | IC | DNA |
|----|------------------|---|-----|----|-----|
| A1 | INSTRUCTIONS | Does the firm provide instructions or procedures the worker is expected to follow in doing the work? | YES | NO | |
| A2 | TRAINING | Does the firm provide training to the worker? | YES | NO | |
| A3 | INTEGRATION | Does the continuation of the scope and function of the firm depend appreciably upon the services of the worker? | YES | NO | |
| A4 | PERSONAL SERVICE | Does the firm require the personal services of the worker to get the job done? | YES | NO | |

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| # | FACTOR | DESCRIPTION | EE | IC | DNA |
|-----|-------------------------|--|-----|-----|-----|
| A5 | ASSISTANTS | Does the firm hire, supervise and pay for any assistants needed by the worker to do the work? | YES | NO | |
| A6 | CONTINUING RELATIONSHIP | Does the relationship between the firm and the worker contemplate continuing or recurring work? | YES | NO | |
| A7 | HOURS OF WORK | Does the firm set the hours of work or the amount of hours to be worked by the individual? | YES | NO | |
| A8 | FULL TIME | Is the worker required to devote full time to the firm during the relationship? | YES | NO | |
| A9 | PLACE OF WORK | Is the individual required to perform the work on the firm's premises? | YES | NO | |
| A10 | ORDER OR SEQUENCE | Is the worker required to perform the services in an order or pattern set by the firm? | YES | NO | |
| A11 | REPORTS | Is the worker required to give oral or written reports to the firm on the state of the work? | YES | NO | |
| A12 | PAYMENTS | Is the worker's pay based upon time worked? | YES | NO | |
| A13 | EXPENSES | Does the firm pay the worker's expenses? | YES | NO | |
| A14 | TOOLS & MATERIALS | Does the firm furnish the tools and materials needed to do the work? | YES | NO | |
| A15 | INVESTMENT | Does the worker have a significant investment in the facilities used in doing the work? | NO | YES | |
| A16 | PROFIT OR LOSS | Can the worker realize a profit or suffer a loss as a result of the services performed for the firm? | NO | YES | |

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| # | FACTOR | DESCRIPTION | EE | IC | DNA |
|-----|-------------------------------|---|-----|-----|-----|
| A17 | WORKS FOR MORE THAN ONE FIRM | Does the individual work for a number of firms at the same time? | NO | YES | |
| A18 | OFFERS SERVICES TO THE PUBLIC | Does the worker offer this service to the general public? | NO | YES | |
| A19 | RIGHT TO FIRE | Does the firm have the right to discharge the worker at any time? | YES | NO | |
| A20 | RIGHT TO QUIT | Does the individual have a right to terminate the relationship at any time without incurring liability? | YES | NO | |

IRRESPECTIVE OF THE RESULT OF THE COMMON LAW DETERMINATION ABOVE, YOU MUST ALSO SATISFY BOTH TEST B AND TEST C BELOW.

TEST B: ANSWERING EITHER OF THESE QUESTIONS AS IC WILL SATISFY THIS TEST

| # | FACTOR | DESCRIPTION | EE | IC | DNA |
|----|---|---|-----|----|-----|
| B1 | OUTSIDE USUAL COURSE OF EMPLOYER'S BUSINESS | Is the service provided part of the employer's normal business operation? | YES | NO | |
| B2 | OUTSIDE EMPLOYER'S PREMISES | Does the individual perform any of the work on the firm's premises? | YES | NO | |

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TEST C: THIS TEST MUST BE APPLIED TO EACH INDIVIDUAL. SIMILARLY SITUATED WORKERS MAY DIFFER IN THEIR RESPONSE TO THIS FACTOR.

| # | FACTOR | DESCRIPTION | EE | IC | DNA |
|----|---|--|----|-----|-----|
| C1 | ENGAGED IN AN INDEPENDENTLY ESTABLISHED BUSINESS OF THE SAME NATURE AS SERVICE PROVIDED | Is the worker customarily engaged in an independently established trade, business, occupation or profession of the same nature as the service being provided? (Items A13-A20 may help to determine the existence of a business.) | NO | YES | |

POTENTIAL EVIDENCE TO SUPPORT YOUR DETERMINATION REGARDING TEST C

| | | |
|--|--|---|
| Business license | Letterhead stationary | References of other clients |
| Business liability insurance certificate | Advertisements in yellow pages, newspapers, trade journals, etc. | Registration for or collection of state sales tax on the services provided. |
| Business card | Bills or invoices with a logo or trade name | Federal identification number for the business. |

Notes regarding this determination: