

IRS Categories of Evidence

What Are the Categories of Evidence?

The IRS has categorized the facts that provide evidence of the degree of control and independence in the relationship between the worker and the business into the following three categories:

- Behavioral Control
- Financial Control
- Type of Relationship

These "categories of evidence" can be used by locations when examining a work relationship to make an independent contractor - employee determination. All evidence of control and independence must be examined.

Behavioral Control

Facts in this category are those that illustrate whether there is right to direct or control how the worker performs the specific task for which he or she is hired. These include the type and degree of:

- instructions the business gives the worker.
- training the business gives the worker.

Financial Control

Facts in this category are those that illustrate whether there is right to direct or control how the business aspects of the worker's activities are conducted. These include:

- the extent to which the worker has unreimbursed business expenses.
- the extent of the worker's investment.
- the extent to which the worker makes services available to the relevant market.
- how the business pays the worker.
- the extent to which the worker can realize a profit or incur a loss.

Type of Relationship

This category includes facts that illustrate how the parties perceive their relationship. These include:

- written contracts describing the relationship the parties intended to create.
- whether the business provides the worker with employee-type benefits, such as insurance, a pension plan, vacation pay, or sick pay.
- the permanency of the relationship.

- the extent to which services performed by the worker are a key aspect of the regular business of the company.
- the right to discharge a worker and the right to terminate work without incurring a penalty.

Note: Recent court decisions continue to weigh evidentiary factors related to discharge/termination. These factors can provide useful evidence, but should be used cautiously.

More Information

A detailed text of the training guide for IRS agents on the "categories of evidence" used to determine a worker's status, including examples and case studies, is available from various sources. For information on how to obtain the text contact the Campus Support Unit in the Office of Employee Services.

[IRS Publication 15-A, Employer's Supplemental Tax Guide](#) also provides descriptions of the categories and examples for different types of industries.