
Worker Classification Checklist

For each worker, answer the 12 questions below. Tally your results at the end to determine whether they should be classified as a W-2 employee or 1099 independent contractor.

Worker Name: _____

Role/Project: _____

Date Assessed: _____

Behavioral Control

1. Do you (or will you) provide detailed instructions on HOW to perform the work?

YES — I specify the methods, processes, or steps they should follow → Points to **W-2**

NO — I describe the desired result and they determine how to achieve it → Points to **1099**

2. Do you set the worker's schedule (specific hours or days they must work)?

YES — I determine when they work (e.g., "9am–5pm, Monday–Friday") → Points to **W-2**

NO — They set their own hours and work when they choose → Points to **1099**

3. Do you (or will you) provide training on how to do the job?

YES — I train them on my systems, processes, or methods → Points to **W-2**

NO — They bring their own expertise and methods; no training needed → Points to **1099**

4. Do you require them to perform the work personally (they can't delegate or subcontract)?

YES — They must do the work themselves → Points to **W-2**

NO — They can hire helpers or subcontract portions of the work → Points to **1099**

Financial Control

5. Do you provide the tools, equipment, or software they need to do the work?

- YES** — I provide their computer, software licenses, tools, or equipment → Points to **W-2**
- NO** — They use their own tools, equipment, and software → Points to **1099**

6. Do you reimburse their business expenses?

- YES** — I pay for their travel, supplies, or other work-related costs → Points to **W-2**
- NO** — They bear their own business expenses → Points to **1099**

7. How do you pay them?

- SALARY or HOURLY** — Regular paycheck on a set schedule (weekly, biweekly, monthly) → Points to **W-2**
- PER PROJECT or INVOICE** — They bill me for completed work or milestones → Points to **1099**

8. Can they work for other clients or businesses at the same time?

- NO** — They work exclusively (or primarily) for me → Points to **W-2**
- YES** — They actively serve multiple clients → Points to **1099**

Relationship Type

9. Is the working relationship ongoing and indefinite (no defined end date)?

- YES** — There's no set end date; the relationship is open-ended → Points to **W-2**
- NO** — The engagement has a defined scope, project end date, or deliverable → Points to **1099**

10. Is the work they do a core function of your business?

- YES** — The work is central to what my business does (e.g., a developer at a software company) → Points to **W-2**

NO — The work is a support function or outside my core business (e.g., a CPA doing our taxes) → Points to **1099**

11. Do you provide benefits (health insurance, PTO, retirement plan)?

YES — They receive some or all employee-style benefits → Points to **W-2**

NO — No benefits provided → Points to **1099**

12. Do they have their own business entity (LLC, corporation, etc.) and market services to the public?

NO — They don't have a formal business, website, or other clients → Points to **W-2**

YES — They have a registered business, professional website, and serve multiple clients → Points to **1099**

Scoring

Count your answers:

	Count
Total "Points to W-2" answers	_____ / 12
Total "Points to 1099" answers	_____ / 12

Your Classification Recommendation

9–12 answers point to W-2:

This person is almost certainly an employee. Classify as W-2. Set up payroll, withholding, and employer tax payments. Provide a W-4 on their first day.

9–12 answers point to 1099:

This person is almost certainly an independent contractor. Classify as 1099. Use an independent contractor agreement, collect a W-9, and pay via invoice. Issue a 1099-NEC at year-end if you pay them \$600+.

5–8 answers on either side:

You're in the gray zone. This is where misclassification risk is highest. Consider these tiebreakers:

- **Behavioral control is the most important factor.** If you control HOW they do the work (questions 1–3), that weighs heavily toward W-2 regardless of other factors.
- **When in doubt, classify as W-2.** The penalties for misclassifying an employee as a contractor are severe. There's no equivalent penalty for treating a contractor as an employee.
- **Consult a professional.** If the score is close, talk to an employment attorney or CPA before proceeding. The cost of a consultation (\$200–\$500) is nothing compared to misclassification penalties.

Red Flags: Situations That Trigger IRS/DOL Audits

Watch out for these patterns — they're audit magnets:

- Converting former W-2 employees to 1099 contractors (same role, same work)
- Having 1099 contractors who work exclusively for you for 6+ months
- Providing 1099 contractors with company email addresses
- Requiring 1099 contractors to attend regular internal meetings
- Paying 1099 contractors on the same schedule as employees
- Having 1099 contractors and W-2 employees doing the same type of work

If you checked any of these: Revisit the classification immediately. These patterns strongly suggest the worker should be W-2.

What to Do Next

If classifying as W-2:

- Have them complete Form W-4 (federal withholding)
- Complete Form I-9 (employment eligibility) within 3 days
- Set up payroll (withholding, deposits, filings)
- Get workers' compensation insurance

- Create an offer letter

If classifying as 1099:

- Have them complete Form W-9
- Draft an independent contractor agreement (scope, deliverables, timeline, payment terms)
- Verify they have their own business entity and other clients
- Set up invoice-based payment (not salary)
- Plan to issue 1099-NEC by January 31 if paying \$600+

For all workers:

- Open a dedicated business bank account for payroll and contractor payments — [get one free at Holdings](#)
- Keep classification documentation on file
- Reassess classification annually (roles and relationships evolve)

California AB5 Supplement

If your worker is based in California, you must also pass the **ABC test** to classify as 1099. ALL THREE must be true:

- (A)** The worker is free from your control and direction in performing the work (both under the contract AND in fact)
- (B)** The worker performs work that is OUTSIDE the usual course of your business
- (C)** The worker is customarily engaged in an independently established trade, occupation, or business of the same nature

If ANY of these is "no" → the worker is an employee under California law, regardless of the federal classification. Prong B is the most restrictive — if they do work that's part of your core business, they're likely an employee in CA.

This checklist is for educational and planning purposes only. It is not legal or tax advice. Worker classification is fact-specific and varies by jurisdiction. Consult an employment attorney or CPA for definitive guidance.

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