Employee or Independent Contractor?

The following are a list of 20 questions the IRS uses to determine if a worker is an independent contractor or employee. The answer of yes to any one of the questions (except #16) may mean the worker is an employee.

- 1. Is the worker required to comply with instructions about when, where and how the work is done?
- 2. Is the worker provided training that would enable him/her to perform a job in a particular method or manner?
- 3. Are the services provided by the worker an integral part of the business' operations?
- 4. Must the services be rendered personally?
- 5. Does the business hire, supervise, or pay assistants to help the worker on the job?
- 6. Is there a continuing relationship between the worker and the person for whom the services are performed?
- 7. Does the recipient of the services set the work schedule?
- 8. Is the worker required to devote his/her full time to the person he/she performs services for?
- 9. Is the work performed at the place of business of the company or at specific places set by the company?
- 10. Does the recipient of the services direct the sequence in which the work must be done?
- 11. Are regular oral or written reports required to be submitted by the worker?
- 12. Is the method of payment hourly, weekly, monthly (as opposed to commission or by the job?)
- 13. Are business and/or traveling expenses reimbursed?
- 14. Does the company furnish tools and materials used by the worker?
- 15. Has the worker failed to invest in equipment or facilities used to provide the services?
- 16. Does the arrangement put the person in a position or realizing either a profit or loss on the work?
- 17. Does the worker perform services exclusively for the company rather than working for a number of companies at the same time?
- 18. Does the worker in fact make his/her services regularly available to the general public?
- 19. Is the worker subject to dismissal for reasons other than non-performance of the contract specifications?
- 20. Can the worker terminate his/her relationship without incurring a liability for failure to complete the job?

Non-Employee Requirements

To qualify a person as an independent contractor under Section 503 of the 1978 Revenue Act, the following three (3) requirements must be met:

- 1. You must file 1099 miscellaneous income forms (if over \$600)
- 2. Similar workers must be treated alike (not treated as employees)
- 3. There must be a good reason for the contractor status