



LOUISIANA  
**WORKFORCE**  
COMMISSION

**UNEMPLOYMENT TAX GUIDELINES  
FOR EMPLOYERS:  
Independent Contractors**

### **THREE FOLD TEST (INDEPENDENT CONTRACTORS) R.S. 23:1472(12)(E) I, II, III**

Services performed by an individual for wages or under any contract of hire, written or oral, expressed or implied, shall be deemed to be employment subject to this Chapter unless and until it is shown to the satisfaction of the administrator that:

1. Such individual has been and will continue to be free from any control or direction over the performance of such services both under his contract and in fact; and
2. Such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and
3. Such individual is customarily engaged in an independently established trade, occupation, profession or business.

**CAUTION:** Although you may not be subject to the Federal Unemployment Tax Act (FUTA), you may be subject to Louisiana Employment Security Law.

### **GUIDELINES**

#### **A. The following factors indicate that the relationship is employment:**

1. The individual's services are performed on the business premises of the company.
2. The individual has no financial investment in an ongoing business related to the services he is performing.
3. The company provides supplies, materials and necessary tools and equipment for the individual.
4. The company provides training to the individual in the performance of the services.
5. The company's duties to third parties would require that the company maintain control over the individual's performance of services.
6. The individual uses the company's business name in the performance of the services.
7. The individual is required or expected to personally perform the services.
8. The individual is required to report on a periodic basis the services performed, the amount of time the individual performed the services or other details as to the performance of services.
9. Effective operation of the company's business requires that the individual be supervised or controlled in the performance of his service; there is need for supervision of the individual.
10. There is representation (explicitly or implicitly) by the company to customers or the general public that the individual is an employee of the company.
11. There is no written contract or agreement between the company and the individual.
12. The company can terminate the individual's services at any time without liability for damages.
13. The individual does not have a separate business address or telephone number.
14. The individual is prohibited from competing with the company either during the time he is performing services for the company or for any period thereafter.
15. The service performed is of an unskilled nature.

16. The type of service performed by the individual is the only service, or a major part of the service, which the company provides.
17. The individual has no separate insurance coverage for liability in connection with the services performed.
18. The individual has no other similar relationships with companies for which he performs similar services.
19. The individual is paid on a piece-rate or hourly basis rather than for a short-term project or job.
20. The arrangement is for ongoing, continuous services rather than for a short-term project or job.
21. The individual is established to the extent that he is financially dependent on the company, and cannot survive economically if he ceases to provide services for the company.
22. The individual is required or encouraged to keep regular hours or to perform services only during the company's regular hours.

**B. The following factors indicate that the relationship is as an independent contractor:**

1. The individual has his own place of business separate from that of the company.
2. The individual provides his own equipment, supplies and facilities.
3. The individual pays for his own expenses for travel and entertainment, licensing and occupational permits.
4. The individual has other similar arrangements for the performance of services with other companies.
5. The individual receives payment by lump sum or contract rate rather than by an hourly or piecework basis.
6. The individual holds himself out to the public as available to perform similar services for others and does in fact perform such services for others.
7. The services are of a professional or technical nature, the details of which are outside the usual course of business and best left to the discretion of the individual.
8. The arrangement between the individual and the company is in the form of a written agreement which has a specific contract amount and a definite term.
9. The individual advertises for the performance of services.

**C. In determining how these criteria may be applied, the following considerations will be taken into account:**

1. Factors must be weighed. Each case has to be considered on its own facts, and the various factors tending to indicate one or the other relationship have to be weighed.
2. General control is sufficient to consider the relationship as employment. It is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if the employer has the right to do so.
3. Written contract. The existence of a written contract is indicative, but not determinative, of independent contractor status. A written contract does not mean there is an independent contract relationship nor does the absence of a written contract indicate that it necessarily is an employment relationship.