

Before you can determine how to pay a person performing services, you must determine whether that person is an employee or an independent contractor. Whether the worker is an employee or an independent contractor depends on the facts of the particular situation, not on the name you choose to give the relationship. Under federal tax law and regulations, the substance of the relationship, not the label, determines the worker's status.

Generally, the University must withhold and pay income, social security and Medicare taxes, and pay unemployment tax, on wages paid to a worker, but not on payments to an independent contractor. If you misclassify an employee as an independent contractor, the IRS may hold the University liable for taxes for that worker. The University will pay those taxes, and any penalties due to the IRS, from your budget.

There are three (3) primary areas that are of concern when determining whether a worker is an independent contractor or an employee: behavioral control, financial control, and the type of relationships between the worker and the University. To help address these

