



# County Technical Assistance Service

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## Independent Contractors

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Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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## Independent Contractors

**Reference Number:** CTAS-132

Independent contractors are not covered by the FLSA. There is no simple method for determining whether a worker is an employee or an independent contractor. A determination of the relationship cannot be based on isolated factors or upon a single characteristic or on technical concepts. It depends on all of the circumstances of the whole activity. All the facts relevant to the relationship between the worker and the employer must be considered. In general, workers who are economically dependent on the business of the employer, regardless of their skill level, are employees. Independent contractors are workers with economic independence who are in business for themselves. Among the factors that are considered significant, although no single one is regarded as controlling, are:

1. The extent to which the services in question are an integral part of the employer's business.
2. Whether the worker's managerial skills affect his or her opportunity for profit and loss.
3. The relative investments in facilities and equipment by the worker and the employer.
4. The worker's skill and initiative.
5. The permanency of the worker's relationship with the employer.
6. The nature and degree of control by the employer.

Each of the above-listed factors should be carefully analyzed, as well as any other relevant factors, to determine whether a person is an independent contractor based on the totality of the circumstances.

There are some factors that the Department of Labor deems immaterial to the determination of whether an employment relationship exists. The fact that the worker signs an agreement stating that he or she is an independent contractor is not controlling. The fact that the worker has incorporated a business or is licensed by a governmental agency is also not determinative. These include the place where the work is performed, the absence of a formal employment agreement, and whether the alleged contractor is licensed by state/local government. Finally, the time or method of payment does not control the determination. For more information, see [FLSA Fact Sheet #13, Am I an Employee? Employment Relationship under the Fair Labor Standards Act](#).

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