

[Home](#) / [Are You Being Audited?](#) / [Independent Contractors vs. Employees](#) / For employers: Independent contractors vs. employees

For employers: Independent contractors vs. employees



All business owners who retain workers to perform jobs for their business need to establish if those workers are employees or independent contractors.

Our "ABC" test can help you determine the right category for your workers.

Next steps

 [About the audit process](#)

 [Frequently asked questions about audits](#)

Information for workers

 [Independent contractors and 1099 workers](#)

The ABC test

Per New Jersey Unemployment Compensation Law, a worker should be considered an employee *unless all* the following circumstances apply:

- A. The individual has been and will continue to be free from control or direction over the performance of work performed, both under contract of service and in fact; *and*
- B. The work is either outside the usual course of the business for which such service is performed, or the work is performed outside of all the places of business of the enterprise for which such service is performed; *and*
- C. The individual is customarily engaged in an independently established trade, occupation, profession or business.

Employers must understand that once an individual provides remunerated services, this constitutes employment, unless the services are exempt or the statutory requirements for the ABC test have been met.

In New Jersey, because the statute is remedial and its provisions construed liberally, a statutory employee-employer relationship can be found even though that relationship may not satisfy common-law principles. [Judicial reviews](#) by both the Appellate Division of New Jersey's Superior Court and the Supreme Court accept this as a result of the remedial nature of the unemployment program.

The determination of employee v. independent contractor status is particularly difficult in certain situations. It is important to know the law and regulations; the consequences for not knowing can be significant. The use of a questionnaire will aid the employers in making sure that they get all the information needed in classifying individuals they hire. The [Worker Classification Questionnaire](#) which the Department's auditors and investigators use to evaluate if a relationship of an individual with the company is that of an independent contractor or employee under the New Jersey Unemployment Compensation Law is available in this website.

Need more information?

For reference: [Judicial reviews](#)

Division of Employer Accounts

[Home](#)

Employer Services & Rate Information

[How and When to Register as an Employer](#)

[Online Services: Employer Access and More](#)

[Rate Information, Contributions, and Due Dates](#)

[Recertification](#)

[Account Refunds and Credits](#)

[Professional Employer Organizations \(PEOs\)](#)

[Employer's Minimum Wage Tax Credit for Employees With Impairments](#)

Did You Get a Bill or Notice from Us?

[Make an Online Payment](#)

[Get More Information About a Bill](#)

[Interest and Penalties \(NJ-927 and WR-30\)](#)

[Delinquency Notice](#)

[Assessments](#)

[Employer Contribution Rate Notice](#)

[Worker Classification Questionnaire](#)

Is Your Account in Default?

[Judgments, Collections, and Bankruptcies](#)

[Treasury Offset Program](#)

[Garnishment](#)

Are You Being Audited?

[About the Audit Process](#)

[Independent Contractors vs. Employees](#)

[Frequently Asked Questions About Audits](#)

Need Help?

[About Us](#)

[Frequently Asked Questions](#)

[Employer Accounts Guide](#)

[Online Account Support](#)

[Special Situations](#)

[Employer Handbook](#)

[Contact Us](#)

Statewide

[Governor Phil Murphy](#)

[Lt. Governor Sheila Oliver](#)

[NJ Home](#)

[Services A to Z](#)

[Departments/Agencies](#)

[Contact Us](#)

[Privacy Notice](#)

[Legal Statement & Disclaimers](#)

[Accessibility Statement](#)



Copyright © State of New Jersey, 1996-2020

Department of Labor

1 John Fitch Plz,

Trenton, NJ 08611

