



The University of Vermont

Policy V. 4.6.2

Responsible Official: Vice President
for Finance and Treasurer

Effective Date: June 18, 2012

Employee vs. Independent Contractor

Policy Statement

In accordance with Internal Revenue Service Guidelines, the University must properly determine whether a personal service provider should be classified as an employee or as an independent contractor before any services are performed or purchase requisitions are initiated. This policy provides a standard process for determining the appropriate worker classification (employee vs. independent contractor) of individuals providing services to the University, including the development of appropriate documentation supporting the University's determination.

Reason for the Policy

To ensure that the University operates in compliance with IRS Guidelines for the classification of workers as employees or independent contractors.

Applicability of the Policy

This policy applies to all members of the University of Vermont community who engage individuals to perform services for the University, authorize expenditures related to such services, or process payment transactions.

Policy Elaboration

See Procedures below.

Definitions

Employee-employer relationship: An employee-employer relationship exists when the University has the right (whether or not it exercises it) to supervise, control or direct the manner of performance as well as the result of the service.

Independent contractor relationship: An independent contractor relationship exists when the University has the right to specify the result to be accomplished by the work, but not the means and methods by which the result is to be accomplished.

Procedures

Step 1: Evaluation of Classification Criteria

In order to compensate an individual as an independent contractor, the respective dean, director or chair of the unit or department obtaining the personal services must first review the Employee vs. Independent Contractor Classification Criteria

(<http://www.uvm.edu/policies/acct/relateddocs/indcontractclass.pdf>), which summarize the IRS' 20 common law factors, grouped by behavioral control, financial control, and relationship of the parties. When applicable, each of the 20 common law factors are presented as a question to which an affirmative response either strengthens or weakens the case for considering the individual as an independent contractor of the University.

Step 2: Initiate Proper Payment

Factors Indicate Employee Status: Upon consideration of the relevant facts, if a review of the classification criteria in their entirety does not present a strong case for compensating the individual as an independent contractor, payment of the individual should be pursued through Human Resource Services and Payroll Services in accordance with standard hiring processes.

Factors Indicate Independent Contractor Status: If consideration of the relevant facts presents a strong case for classifying the individual as an independent contractor, an Employee vs. Independent Contractor Status Determination Form ("Form") (<http://www.uvm.edu/policies/acct/relateddocs/indcontractform.pdf>) must then be completed by the respective dean, director or chair of the unit or department obtaining the personal services. The information provided on the Status Form will be made available to internal and external auditors, IRS examiners and others as required.

- *Section I: General*

The Form requires the name of the service provider (payee); taxpayer identification number; purchase requisition number; the unit/department; and the name, phone #, and e-mail address of the preparer of the Form. The Form must include a response as to whether the individual is a US citizen, Lawful Permanent Resident (a.k.a. green card holder), or Foreign National.

Note: If the individual is a Foreign National, initiate payment via Check Request, to be submitted to the Disbursement Center, instead of via Requisition via Purchasing Services. Additional documentation will be required pursuant to the *Payments to Nonresident Aliens Policy* and the Provost's *Memo on Payment of Honoraria and Expenses to Foreign Visitors*. See Office of International Education's "Bringing

Foreign Nationals to Campus” at <http://www.uvm.edu/oie/bringing> for a summary of documentary requirements.

- *Section II: Relationship with the University*

It is incumbent upon the department or unit acquiring the services of an individual to verify, and to reflect accurately on the Form, whether the individual has been paid as an employee in the current or previous calendar year. Contact Human Resource Services at (802) 656-3150 for confirmation.

It is the policy of the University that any paid employment in the current calendar year (including student employment, work-study employment and temporary employment) precludes the individual from being classified as an independent contractor of the University. It is also the policy of the University that any paid employment in the preceding calendar year presumptively precludes the individual from being classified as an independent contractor of the University. In limited and exceptional circumstances, a former employee may provide services to the University as an independent contractor, particularly if he or she provides similar services to others and otherwise meets the criteria for classification as an independent contractor. Exceptions asserted under the previous sentence must be approved by the Vice President for Finance and Treasurer. In the discretion of the Vice President for Finance and Treasurer, the University Controller may be asked to submit to the IRS Form SS-8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding* to obtain an official status determination for a service provider.

- *Section III: Classification Guidelines*

The Form must accurately reflect the completion of the respective Part (Part A: Guest Lecturer, Speaker, Grand Rounds presenter; Part B: Researcher, or Part C: An Individual Not Covered within Parts A or B) that best describes the services to be performed.

- *Section IV: Certification and Submission*

A completed Form supporting an Independent Contractor determination must be certified by the unit or department’s dean, director, chairperson, or authorized designee thereof, and submitted to Purchasing Services by scanning and attaching to a requisition in PeopleSoft to support a purchase for personal services. A purchase requisition for personal services will only be processed by Purchasing Services if a completed Form has been submitted that supports an Independent Contractor determination, and has been certified by the unit or department’s dean, director, chair, or authorized designee. If the Form, as completed, at any point, indicates that the individual should be compensated as an employee, payment for services rendered must be initiated through Human Resource Services (802) 656-3150 and Payroll Services (802) 656-0164.

Forms

Check Request Form (for payments to Foreign Nationals)

<http://www.uvm.edu/~cntrllrs/?Page=forms.html>

Employee vs. Independent Contractor Classification Criteria

<http://www.uvm.edu/policies/acct/relateddocs/indcontractclass.pdf>

Employee vs. Independent Contractor Status Determination Form

<http://www.uvm.edu/policies/acct/relateddocs/indcontractform.pdf>

Contacts

Questions related to the daily operational interpretation of this policy should be directed to:

Controller: Tax and Treasury Services (regarding classification questions or IRS Form SS-8)
(802) 656-0674

Human Resource Services (verification of existing employment)
(802) 656-3150

HRInfo@uvm.edu

Payroll Services (guidance for initiating payment to an employee)
(802) 656-0164

payroll@uvm.edu

Purchasing Services
(802) 656-6610

purchasing@uvm.edu

The Vice President for Finance and Treasurer is the official responsible for the interpretation and administration of this policy.

Related Documents/Policies

Contract Approval and Signatory Authority Policy

<http://www.uvm.edu/policies/procure/contract.pdf>

Nonresident Aliens - Payments to Policy

<http://www.uvm.edu/policies/acct/nonresidentaliens.pdf>

Provost's Memo on Payment of Honoraria and Expenses to Foreign Visitors

<http://www.uvm.edu/policies/acct/relateddocs/provostmemo.pdf>

Effective Date

Approved by the President on June 18, 2012