

# How to Qualify a Manufacturer's Rep as an Independent Contractor for Tax Purposes

By Raymond P. Kolak and Kimberly L. Kocek

You are already familiar with the 20-factor test. Raymond P. Kolak and Kimberly L. Kocek show you which factors really count.

There are at least 30,000 manufacturer's representatives representing about 7,000 manufacturers in the United States, according to the Manufacturers' Agents National Association. Of those manufacturers, about 56 percent classify their reps as employees for tax purposes, 16 percent as independent contractors, and 26 percent sometimes as employees and sometimes as independent contractors.

The differences in the federal tax consequences of treating a rep as an employee versus an independent contractor are enormous—the manufacturer must pay withholding taxes on payments to reps who are employees, and no taxes on payments to reps who are independent contractors. Take, for example, payment of a commission by a manufacturer of \$100,000 to a rep. Chart 1 illustrates the difference to both parties, assuming a single payment to a married person with one withholding allowance.

Thus, if the rep qualified as an employee, the rep's commission check would be for \$78,543 (\$100,000 – \$21,457 = \$78,543), and the manufacturer would in addition bear the cost of \$8,070 in withholding taxes. If, however, the rep were classified as an

independent contractor, the rep would receive a commission check for the full \$100,000, and the manufacturer would bear the cost of no withholding taxes. A rep who qualified as an independent contractor would, of course, be required to pay income taxes and self-employment taxes on the commission amount in roughly the same amounts shown above, *via* quarterly estimated tax payments. Nevertheless, many reps would prefer receiving the gross commission check, and many manufacturers would prefer to avoid bearing the cost of the withholding taxes.

Employers need not withhold these taxes or pay workers' compensation for independent contractors.<sup>1</sup> But if the IRS finds that an employer has been

**Chart 1.**

Item	Rep Qualifies as an Employee		Rep Qualifies as an Independent Contractor
	Paid from Manufacturer's Funds	Paid from Rep's Funds	
Income tax withholding		\$13,807	\$0
FICA (Social Security)	\$6,200	\$6,200	\$0
FICA (Medicare)	\$1,450	\$1,450	\$0
FUTA (Unemployment)	\$420		\$0
TOTALS	\$8,070	\$21,457	\$0
GRAND TOTALS		\$29,527	\$0

Raymond P. Kolak and Kimberly L. Kocek are attorneys with Eckhart Kolak LLC, a Chicago law firm.

treating a rep as an independent contractor when in fact the rep is an employee, the penalties and interest are severe.<sup>2</sup> An employer who fails to timely pay the tax shown on a return is subject to a 0.5-percent penalty on the amount of tax due for each month or fraction of a month during which the tax remains unpaid, up to a maximum penalty of 25 percent.<sup>3</sup> In addition, any person who willfully fails to collect, truthfully account for, and pay over any tax is subject to criminal prosecution for a felony.<sup>4</sup>

To protect your client from being assessed these substantial penalties, the client's classification of its reps must be in compliance with the Internal Revenue Code. Unfortunately, the definition of "employee" under the Code begs clarification. Reg. §31.3401(c)-1(a)-(b) states that the relationship of employer and employee exists when the person for whom services are performed has the right to control and direct the individual who performs the services. "Control" is not readily defined in the Code. Instead, Rev. Rul. 87-41, 1987-1 CB 296, lists 20 factors that can be relied upon by the IRS as an indication of control:

1. Instructions
2. Training
3. Integration
4. Services Rendered Personally
5. Hiring, Supervising and Paying Assistants
6. Continuing Relationship
7. Set Hours of Work
8. Full Time Required
9. Doing Work on Employer's Premises
10. Order or Sequence Set
11. Oral or Written Reports
12. Payment by Hour, Week, Month
13. Payment of Business and/or Traveling Expenses
14. Furnishing of Tools and Materials
15. Significant Investment
16. Realization of Profit or Loss
17. Working for More Than One Firm at a Time
18. Making Service Available to General Public
19. Right to Discharge
20. Right to Terminate

The IRS can give each of these 20 factors different amounts of weight and authority, depending on the type of work involved. This article is aimed at minimizing confusion over how the IRS classifies reps in order to help prevent your clients from misclassifying their reps as independent contractors when in fact they are employees.

## Twelve Factors Demonstrating Control

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There are six revenue rulings, 16 private letter rulings and four Tax Court cases that specifically consider the status of a rep as either an employee or independent contractor, and it is apparent that the IRS and Tax Court rely on some factors more than others. Specifically, between four and five factors are consistently discussed in every employee versus independent contractor case involving reps heard by the IRS and Tax Court. This article lists these frequently discussed factors in the order they are most commonly relied upon by the IRS and Tax Court, with substantial consideration given to how often the factor directly corresponds to the outcome of the case. The more often a factor appears, the more important it is for you and your client to consider it in classifying your client's reps. Considering these factors alone will not guarantee the IRS and Tax Court will rule one way or the other, but it will certainly get you and your client closer to the mark. All percentages referenced in this article are derived from the six revenue rulings, 16 private letter rulings and four Tax Court cases reviewed.

### 1. Reporting

Mandatory, regular and frequent sales reporting indicates an employer-employee relationship. Regular written and oral reports made by a rep to the employer indicate the employer has control over the rep, while irregular and spontaneous reporting indicates the rep is self-sufficient and the employer lacks control over the sales process.

The IRS and Tax Court have specifically found that requiring reps to submit daily or weekly sales reports by telephone or in writing indicates an employer-employee relationship. However, requiring reps to submit customer sales forms is not an indication of an employer-employee relationship as long as the reps were not required to report to the company in person, by telephone, or in writing on a regular basis.

Reporting is the single most important element to establishing the status of a rep. In determining whether or not an employee or an independent contractor relationship exists, 92 percent of the IRS and Tax Court decisions reviewed reference reporting as a factor. In every single case and ruling examined,

if the rep was required to make regular written sales reports, the IRS and Tax Court have found the rep to be an employee; whereas, if reps reported as needed and were only required to submit customer sales forms, the IRS and Tax Court found them to be independent contractors.

## 2. Leads

The IRS and Tax Court often find that when a rep is required to follow up on prospective leads from the employer, the rep is an employee. The employer's ability to control who the rep contacts indicates the employer controls the sales procedure. On the other hand, when the rep has to establish his or her own sales leads and develop his or her own clientele, this individual is usually found to be an independent contractor.

Specifically, an employer-employee relationship will likely exist when the rep is required to follow up on leads, sell products in a specific territory, and adhere to prices established by the employer. However, when a sales representative is not provided leads on prospective customers, nor required to contact specific parties, nor adhere to specific schedules and report on a regular basis, the representative is generally found to be an independent contractor.

Whether or not an employer provides sales leads is discussed roughly 73 percent of the time in revenue rulings, private letter rulings, and Tax Court decisions. Almost every time the IRS has found that if a rep was required to follow up on leads, the rep was an employee, and if the rep was not required to follow up, the rep was an independent contractor. This suggests that the IRS and Tax Court heavily rely on this factor in determining whether or not a rep is an employee.

## 3. Instructions and Sales Methods

The duty to follow instructions indicates a rep is an employee for wage withholding purposes. If the employer is instructing a rep as to the method and manner of accomplishing a sale, the employer is controlling the rep.

Examples of controlling instructions and sales methods which indicate an employer-employee relationship include: (1) providing reps with sales training, (2) requiring reps to use specific sales methods while executing a sale, and (3) utilizing a computer tracking system to identify a rep's weaknesses and areas for improvement and providing

recommendations based on the outcomes of the system to instruct the reps as to how he or she could improve services to clients.

By contrast, when reps are not restricted to a specific sales method and are not given instructions or training on how to sell the product, it is more likely that the IRS and Tax Court will find an independent contractor relationship exists.

The element of instructions arises roughly 70 percent of the time. In almost every single case, if the rep is given specific instructions on how to make the sale, or is evaluated and given further instructions as to how to complete the sale, the IRS and Tax Court have deemed the rep to be an employee for tax withholding purposes. By contrast, if the reps are given free rein to conduct sales on the basis of their own sales techniques and methods, the IRS and Tax Court tend to find the reps are independent contractors.

## 4. Sales Terms, Conditions and Pricing

Often, an employer-employee relationship exists when the rep is required to adhere to the sales terms, conditions and pricing of the employer. Demanding a rep to follow specific contractual conditions and pricing terms indicates the employer has control over how the sale is completed. Whereas, if a rep has the authority to negotiate the sales price and contractual terms, the rep is more autonomous and similar to an independent contractor.

Whether or not the rep has the ability to control sales price or change contractual terms is mentioned roughly 73 percent of the time. This factor is frequently considered by the IRS and is often a direct indicator of the outcome of the case. Of all the material reviewed, there are only a few instances where the rep was given specific pricing terms and sales conditions, but the IRS still found the rep was an independent contractor. In all other cases, if a rep was required to follow specific pricing terms and sales conditions, the rep was classified as an employee.

## 5. Geographic Territory

In general, the IRS and Tax Court find that reps who have been assigned to a specific geographic territory are employees because the assignment of a specific geographic territory indicates the employer is controlling where sales take place.

In particular, reps were found to be employees when they were assigned to specific geographic territories, and all sales were subject to the acceptance and approval of the company. It is also likely that when a rep is assigned to a specific geographic territory coupled with other indications of control, the IRS and Tax Court will find an employer-employee relationship exists. Specifically, the IRS and Tax Court have found that an employer-employee relationship existed when the rep was assigned to a specific territory, had to adhere to firm pricing, was required to submit written reports, was supplied sales leads, and was required to abide by the terms and conditions of sale established by the firm.

However, geographic territory is not conclusive. In one instance, the Tax Court found reps were independent contractors, despite the fact they were assigned to a specific geographic territory. The Tax Court weighed all the factors in the case and found that because the employer did not provide particular sales techniques, sales training or prospective leads, and did not hold sales meetings or require reporting, the rep was an independent contractor. The Tax Court concluded that the majority of factors suggested an independent contractor relationship as opposed to an employer-employee relationship.

The assignment of a specific geographic territory is mentioned about 70 percent of the time. The cases that found a rep to be an employee when he was assigned to a specific geographic territory also had several other traits indicating an employer-employee relationship, such as mandatory reporting, required sales methods, expenses paid by the employer, and the assignment of specific sales leads. Therefore, geographic territory is a factor to consider, but it is not conclusive. All of the facts and circumstances must be weighed as a whole.

### **6. Expenses and Supplies**

Payment of a rep's business or traveling expenses indicates employee status for wage withholding purposes. Funding a rep's traveling or business expenses is a method of controlling how the rep operates and performs his or her duties for the company.

Providing or reimbursing a rep with office supplies, equipment, furniture, traveling expenses, meals, entertainment and other miscellaneous expenses usually indicates an employer-employee relationship. On the other hand, reps who made significant investments in their sales activities and paid for their

own business and transportation expenses are more likely to be identified as independent contractors.

In all of the private letter rulings, revenue rulings and Tax Court decisions examined, payment of expenses is mentioned roughly 88 percent of the time and is frequently considered by the IRS and Tax Court. Although this factor is frequently examined by the IRS, it should not be relied upon conclusively. There are multiple instances in which the rep paid for their own expenses and the IRS still found the rep was an employee. Thus, this factor should always be considered in conjunction with all the other factors.

### **7. Training**

Requiring a rep to attend sales training consistently designates an employer-employee relationship. Training a rep indicates the employer wants the work or services performed in a specific method or manner, especially if the training is given at periodic or frequent intervals.

Requiring reps to attend mandatory sales training on a regular basis indicates an employer-employee relationship, while reps were often found to be independent contractors when they were not provided any training or instructions about the way services were to be performed.

However, training a rep about new products or government regulations is generally not considered an indication of control. But if the rep is being trained about company policies, procedures and methods that must be used in performing sales services, the IRS and Tax Court usually conclude that the employer is controlling the rep enough to establish an employer-employee relationship.

Throughout the materials reviewed, sales training is mentioned 62 percent of the time; therefore, the IRS and Tax Court tend to view sales training as a substantial indication of control.

### **8. Mandatory Sales Meetings**

The duty to attend weekly sales meetings indicates an employer-employee relationship. Requiring attendance at meetings on a consistent basis indicates the employer wants the employee to perform the sales services in a particular manner. Similarly, if the rep has the option to attend a sales meeting but is not required to do so, the IRS and Tax Court generally find this rep is an independent contractor. Reps have also been found to be independent contractors when they were invited to attend sales meetings, but were not penalized for failing to appear.

Throughout the materials examined, whether or not the rep is required to attend sales meetings on a regular basis is discussed 58 percent of the time. If the rep is required to attend meetings, coupled with other factors indicating an employee relationship, the IRS and Tax Court tend to find this individual is an employee.

## 9. Exclusive Appointments

If a rep performs more than *de minimis* services for multiple unrelated persons or firms at the same time, that factor generally indicates the rep is an independent contractor. However, if a rep works only for one firm, he or she generally tends to be an employee. Requiring a rep to work exclusively for the employer is an indication of control because, in general, independent contractors have the freedom to work for several employers.

In the past, reps were found to be employees when they worked solely for the employer, signed a noncompete agreement, were not allowed to call specific clients, were required to devote their full time and energy to the firm and were assigned to a specific geographic location. On the other hand, the IRS has found an independent contractor relationship existed where the rep was merely precluded from selling competing product lines, but were still given the freedom to work for other individuals or entities.

Exclusive appointments were mentioned in about 62 percent of the materials reviewed, and usually the IRS and Tax Court find a rep to be an employee where he or she is required to work exclusively for the employer.

## 10. Approval of Final Sales

Requiring all sales made by the rep to be subject to the final acceptance and approval of the employer generally indicates an employer-employee relationship. The final acceptance and approval of the sale is seen as another way for the employer to exhibit control over the rep.

In all the cases reviewed, the element of final approval has arisen roughly 38 percent of the time. This factor is important because the majority of times it has been mentioned, the IRS or Tax Court have found the individual to be an employee of the company.

## 11. Noncompetition Agreements

A written agreement between the employer and the rep, stating the rep is not allowed to compete

or represent other employers, is usually an indication the rep is an employee. Where the employer requires a rep to sign a noncompete agreement and devote their full time and energy to the company, the rep will likely be classified as an employee for withholding purposes.

Noncompete agreements were mentioned in only a few of the cases, so this factor does not come up often, yet this factor is important because every single time a rep has signed or was restricted by a noncompete agreement, the IRS or Tax Court found this rep was in fact an employee.

## 12. Employee Benefits

The receipt of employee benefits is frequently an indication of an employer-employee relationship. In general, the payment of benefits to the rep is a determinative factor in finding the rep was an employee of the employer. Unless there are significant other factors indicating an independent contractor relationship, the payment of benefits is a red flag designating an employer-employee relationship exists.

However, it is important to emphasize that simply not paying benefits will not guarantee an independent contractor relationship exists. In multiple cases, the employer did not pay benefits to the reps, and the reps were still found to be employees of the employer.

Based on the total number of cases reviewed, it is in an employer's best interest not to pay the rep's benefits. While there have been a few exceptions, the IRS and Tax Court generally find the payment of benefits to indicate an employer-employee relationship.

The above compilation of factors provides a rough outline for what the IRS and Tax Court are looking for in terms of determining whether or not an independent contractor relationship exists. However, it is important to keep in mind one single factor is usually not determinative, but the more frequently the factor is mentioned, the more likely it is the IRS and Tax Court will place greater emphasis on it during their analyses.

## Substance of the Business Relationship Recommendations

Although the IRS and Tax Court heavily rely on the terms of the written contract between the employer and the rep, the IRS and Tax Court will also consider

the actual substance of the business relationship in order to determine whether or not a rep is an employee or an independent contractor.<sup>5</sup>

In order to ensure your client's reps are characterized as independent contractors, the recommendations shown in Chart 2 are suggested.

It is important to keep in mind that this is a fact-driven analysis, and every recommendation need not be followed in order to result in an independent contractor relationship. However, the more factors indicating lack of control, the more likely the IRS and Tax Court will find an independent contractor relationship.

## Incorporation

Often clients question whether or not incorporation or organization as an LLC by a rep or group

of reps will guarantee the reps will be considered independent contractors for the purposes of withholding taxes. Code Sec. 3121(d)(2) provides that the term "employee" means "any *individual* who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee." "Employer" is defined as the "person for whom an *individual* performs or performed any service."<sup>6</sup> The language of the Code suggests that the status of employee can only be assigned to individuals. If this is true, corporations or LLCs could never be considered employees, and would always be characterized as independent contractors. So, if a manufacturer pays the commission to a corporation or an LLC, does that rule out application of employment taxes?

Unfortunately, the language of the Code is not conclusive, and the incorporation of your client's

**Chart 2.**

	<b>Do Not</b>	<b>Do</b>
Reporting	Do not require regular written or oral sales reporting	Encourage your reps to turn in sales forms when sales have been made
Instructions	Do not require reps to follow specific sales instructions or sales methods	Hire reps with substantial sales experience so specific instructions will not be necessary
Sales Quota	Do not establish sales quotas	Provide sales bonuses and incentives for reps
Expenses	Do not provide reimbursement for expenses - including office supplies, traveling expenses, meals, entertainment, and other miscellaneous expenses	Encourage your reps to invest their own time and money into making a sale
Leads	Do not require reps to follow up on specific leads	Encourage reps to develop their own clientele; if reps are given sales leads, do not monitor whether or not a rep has followed up with the lead
Training	Do not require reps to enroll in mandatory sales training courses	Provide training for new products and government regulations
Meetings	Do not require reps to attend regular, mandatory sales meetings	Hold sales meetings, but do not make attendance mandatory
Final Sales Approval	Do not require all sales made by reps to be subject to the final acceptance and approval of the employer	Allow reps to complete and be responsible for the final sale
Noncompete Agreements	Do not require reps to sign noncompetition agreements	Encourage your reps to consider the best interests of your company
Pricing	Do not demand specific pricing terms and contractual conditions	Allow rep to negotiate price and alter contractual terms
Office Space and Supplies	Do not provide an office space and office supplies for reps	Encourage reps to work from a private office
Exclusive Appointment	Do not inhibit or prevent reps from working for other individuals or entities on noncompeting product lines	Discourage reps from selling competing product lines
Fringe Benefits	Do not pay the fringe benefits of a rep	Offer sales incentives to reps

reps will not guarantee the reps will be treated as independent contractors for tax purposes. In situations involving an individual who was self-employed, *i.e.*, an independent contractor who then incorporated, the courts have favored the recognition of the corporation as a separate taxpayer apart from its shareholders, so long as the corporation has a valid business purpose and actually conducts business.<sup>7</sup> However, where the corporation is merely a conduit without a distinct and valid business purpose, the IRS or Tax Court may disregard the corporation's existence and find the independent contractor is an employee.<sup>8</sup>

Disregarding a corporate entity is carefully considered by the IRS and Tax Court. In general, courts have ruled that a corporation constitutes a separate taxable entity which will not be ignored for federal income tax purposes if it is created for business purposes or actually conducts business after incorporation. However, where a corporation relies upon personal services of an employee to produce income, the question arises whether it is the employee or the corporation that is actually conducting the business. If the corporation is not actually conducting the business, its corporate entity may be disregarded by the IRS and Tax Court.<sup>9</sup>

To bolster the argument that the corporation is indeed conducting the business, rather than its service-performer employee, consider the following: first, the service-performer employee must be an employee of the corporation whom the corporation has the right to direct or control in some meaningful sense; second, there must be a contract between the corporation and the person or entity using the services which recognizes the corporation's controlling position. In other words, there must be two contracts: (1) an employment agreement between the rep and the LLC/Corporation, and (2) an agreement between the LLC/Corporation and the entity for which services are being performed.

Additionally, to prevent the IRS and Tax Court from disregarding your client's corporate entity, the commission should be paid to the LLC/Corporation instead of the rep. Also, the agreement between the LLC/Corporation and the manufacturer receiving services should not be signed by the rep, unless the rep is signing the agreement in his or her capacity as the president of the LLC/Corporation. Having the rep sign the agreement indicates that the corporation (instead of the LLC/Corporation) has control over how the rep is performing the services, which may lead the IRS or Tax Court to find the LLC/Corporation serves no business purpose and should be disregarded.

In sum, incorporation will not guarantee that a rep will be characterized as an independent contractor by the IRS and Tax Court. If a rep chooses to incorporate or organize an LLC, precaution should be taken in order to ensure the corporate entity is upheld.

## Conclusion

The IRS and Tax Court consider multiple factors in order to determine whether or not an employer-employee relationship exists; however, the most significant indicator of an employer-employee relationship is control over the rep. If your client's goal is to classify its reps as independent contractors, it is in their best interest to exhibit as little control over its reps as possible, while still meeting its business strategies and goals.

## ENDNOTES

- <sup>1</sup> Reg. §31.3402(a)-1(b) (as amended in 1983).
- <sup>2</sup> Code Sec. 6672(a).
- <sup>3</sup> Code Sec. 6651(a)(2).
- <sup>4</sup> Code Sec. 7202.
- <sup>5</sup> IRM 4.23.5.4(1)(a) (Feb. 1, 2003).
- <sup>6</sup> Code Sec. 3401(d) (as amended 2008).
- <sup>7</sup> LTR 8742011 (July 13, 1987).
- <sup>8</sup> *A. Leavell*, 104 TC 140, Dec. 50,443 (1995).
- <sup>9</sup> *C. Johnson*, 78 TC 882, 890, Dec. 39,069 (1982), *aff'd without published opinion*, CA-9, 734 F2d 20 (1984).

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Table 1.

Citation	Finding	Reporting	Leads	Instructions and Sales Methods	Sales Terms, Conditions and Pricing	Geographic Territory	Expenses and Supplies	Training	Mandatory Sales Meetings	Exclusive Appointment	Approval of Final Sales	Non-Competition Agreements	Employee Benefits
<i>Rosato v. Commissioner</i> , 99 T.C.M. (CCH) 1156 (2010)	EE	EE				EE	EE	EE	EE	EE		EE	EE
<i>Levine v. Commissioner</i> , T.C. Memo 2005-86 (U.S. Tax Court 2005)	I.C.	I.C.		I.C.			EE			EE			EE/I.C.
<i>Hathaway v. Commissioner</i> , 72 T.C.M. (CCH) 460 (1996)	I.C.	I.C.	I.C.	I.C.	I.C.	EE	I.C.	I.C.	I.C.		EE		EE
<i>Lewis v. Commissioner</i> , 66 T.C.M. 1993-635	EE	EE	EE		EE	EE	EE	EE	EE	EE		EE	EE
<i>Rev. Rul. 74-389, 1974-2 C.B. 330</i>	I.C.	I.C.	I.C.	I.C.	I.C.	I.C.	EE	I.C.	I.C.	EE			EE
<i>Rev. Rul. 74-98, 1974-1 C.B. 292</i>	EE	EE	EE	EE	EE	EE	EE						I.C.
<i>Rev. Rul. 73-374, 1973-2 C.B. 332</i>	I.C.	I.C.	I.C.	I.C.	I.C.	I.C.	I.C.				EE		
<i>Rev. Rul. 71-370, 1971-2 C.B. 345</i>	I.C.	I.C.	I.C.	I.C.	EE	EE	I.C.			I.C.	I.C.		
<i>Rev. Rul. 70-587, 1970-2 C.B. 224</i>	I.C.	I.C.		I.C.	EE	EE	I.C.						
<i>Rev. Rul. 70-586, 1970-2 C.B. 223</i>	EE				EE	EE					EE		
<i>I.R.S. Priv. Ltr. Rul. 96-51-003</i> (August 26, 1996)	EE	EE	EE	EE	EE	EE	EE	EE	EE	EE		EE	I.C.
<i>I.R.S. Priv. Ltr. Rul. 95-17-002</i> (January 9, 1995)	EE	EE		I.C.	EE	EE	I.C.	EE	EE	EE		EE	I.C.
<i>I.R.S. Priv. Ltr. Rul. 91-40-031</i> (June 28, 1991)	EE	EE	EE	EE	EE	EE	EE	EE		EE			
<i>I.R.S. Priv. Ltr. Rul. 91-29-044</i> (April 24, 1991)	I.C.	I.C.	EE	I.C.	I.C.	I.C.	I.C.	I.C.	I.C.				
<i>I.R.S. Priv. Ltr. Rul. 90-33-011</i> (May 17, 1990)	EE	EE	EE	EE	EE	EE	EE	EE	EE	EE	EE	EE	I.C.
<i>I.R.S. Priv. Ltr. Rul. 90-10-018</i> (December 7, 1989)	EE	EE		EE/I.C.	EE		EE/I.C.	I.C.			EE		
<i>I.R.S. Priv. Ltr. Rul. 89-02-028</i> (October 17, 1989)	EE	EE	EE	EE	EE	EE	EE	EE	EE	EE	EE	EE	
<i>I.R.S. Priv. Ltr. Rul. 88-46-033</i> (August 22, 1988)	EE	EE	EE	EE	EE	EE	EE	EE	EE	EE	EE	EE	
<i>I.R.S. Priv. Ltr. Rul. 88-40-009</i> (June 30, 1988)	EE	EE	EE	EE	EE	EE	EE	I.C.	I.C.	EE			I.C.
<i>I.R.S. Priv. Ltr. Rul. 87-33-011</i> (May 15, 1987)	EE	EE	EE	EE	EE	EE	EE	EE	EE	EE	EE	EE	
<i>I.R.S. Priv. Ltr. Rul. 86-43-013</i> (July 23, 1986)	EE		EE		EE							EE	
<i>I.R.S. Priv. Ltr. Rul. 86-36-037</i> (June 4, 1986)	EE	EE	EE	EE	EE	EE	I.C.	EE	EE	EE		EE	
<i>I.R.S. Priv. Ltr. Rul. 86-10-062</i> (December 11, 1985)	EE	EE	EE				I.C.		EE		EE	EE	
<i>I.R.S. Priv. Ltr. Rul. 86-02-072</i> (October 17, 1985)	EE	EE	EE			EE	EE		EE	EE			
<i>I.R.S. Priv. Ltr. Rul. 79-30-034</i> (April 24, 1979)	EE	EE	EE	EE	EE	EE	I.C.		EE		EE	EE	I.C.
<i>I.R.S. Priv. Ltr. Rul. 77-42-101</i> (July 26, 1977)	I.C.	I.C.	I.C.	I.C.	EE	I.C.	I.C.	I.C.	EE	I.C.			I.C.

Key: I.C. = Independent Contractor EE = Employee No Entry = Factor not mentioned in case