

Common important factors for distinguishing employee and self-employed person/contractor



There is no one single conclusive test to distinguish an “employee” from a “self-employed person/contractor”. In differentiating these two identities, all relevant factors of the case should be taken into account. Moreover, there is no hard and fast rule as to how important a particular factor should be. The common important factors include:

- Control over work procedures, working time and method;
- Ownership and provision of work tools and materials;
- Whether the person is carrying on business on his own account with investment and management responsibilities;
- Whether the person is properly regarded as part of the employer’s organization;
- Whether the person is free to hire helpers to assist in the work;
- Bearing of any prospect of profit or risk of loss of the business;
- Responsibilities in insurance and tax;
- Traditional structure and practices of the trade or profession concerned; and
- Other factors that the court considers as relevant.

Note: Since the actual circumstances in each case are different, the final interpretation will rest with the court in case of a dispute.