

TABLE 2-3

THE TAX COURT'S SEVEN-FACTOR TEST

FACTOR	EXPLANATION
1. Degree of control exercised by the employer over the details of the work	The more control exercised by an employer over the details of the work, the more likely the worker is an employee.
2. Which party invests in the facilities used in the work	Workers employed by an employer who provides the facilities used in the work are more likely to be employees.
3. Opportunity of the individual for profit or loss	Employees generally do not realize profits or losses as a result of their work (they are paid a salary); self-employed workers often do realize profits or losses.
4. Whether the employer has the right to discharge the worker	If the employer can discharge a worker, this indicates that the worker is an employee.
5. Whether the work is part of the employer's regular business	Workers who are furthering the employer's regular or customary business are more likely to be employees.
6. Permanency of the relationship	The more permanent the relationship, the more likely the worker is an employee.
7. Relationship the parties believe they are creating	Ordinarily the parties assume that a worker is an employee who is issued a W-2 and who receives several fringe benefits.