

Independent Contractors vs. Employees

- **Two Entities regulate the treatment of independent contractors vs. employees: The IRS and the Department of Labor**
- **The IRS views the relationship through the lens of tax liability**
- **The Department of Labor views the relationship through the lens of labor practices Both have different standards by which they evaluate the relationship. There are similarities between the two, but there are nuances.**



IRS Standards

Behavioral Control

- Type of instructions given
- Degree of instruction
- Evaluation systems
- Training

Financial Control

- Significant Investment
- Unreimbursed Expenses
- Opportunity for Profit or Loss
- Services Available to the Market
- Method of Payment

Relationship of the Parties

- Written Contract
- Employee Benefits
- Permanency of the Relationship
- Services Provided as a **Key Activity** of the business

DOL Standards

- The Nature and degree of control over the work
- The Individual's Opportunity for Profit or Loss
- The amount of skill required for the work
- The degree of permanence of the working relationship between the individual and the potential employer
- Whether the work is part of an integrated unit of production
- Economic reality test to determine economic dependence