



WORKER RELATIONSHIP QUESTIONNAIRE

Determining whether a worker is an employee or independent contractor for Missouri unemployment insurance (UI) purposes is important for several reasons. Wages paid to employees generally are subject to employment taxes imposed under Missouri law and only employees are eligible to receive unemployment benefits.

If an employer/employee relationship exists, it does not matter what the worker or the relationship is called. The worker may be called an agent or contract labor. It does not matter how payments are measured or paid, what the payments are called, or if the individual works full or part-time. In determining a worker's status, the primary question is whether the worker is an independent contractor or an employee. Any agreement by an individual to waive his or her rights to UI coverage is void under the Missouri Employment Security Law. Unless an employer can show to the satisfaction of the Division of Employment Security (DES) that the employer/employee relationship does not exist, service performed by an individual for payment is employment.

The DES applies the 20-factor test originally developed by the Internal Revenue Service (IRS) to determine whether particular workers are employees or independent contractors. The 20 factors do not serve as a bright-line rule to be applied without flexibility, but rather as guides or aids used in determining the nature of the employment relationship. No single factor is conclusive, and some factors may be more important than others depending on the industry involved and the context in which the services are performed.

The focus of the DES inquiry is the degree to which the employer has the right to control the manner and means of a worker's performance. For additional information, you may order the pamphlet *Classifying Employees for Unemployment Insurance Tax Purposes* (MODES-INF-310).

Employers and employing units are required by Section 288.130 of the Missouri Revised Statutes to provide the information in this questionnaire.

NOTE:

If the individual whose status is in question is in a class of the same type of workers (e.g. roofers, servers, salespersons, etc.), complete the form for ONE individual who is representative of the class of workers.

A separate form must be completed when a determination is desired for more than one class of workers, or if the facts are materially different within the same class of workers.

The Division of Employment Security is concerned with Missouri workers. Complete this form concerning the workers who are localized in Missouri or those who solely work in Missouri. If there is a question concerning to which state the worker would be reportable, please contact the DES at 573-751-1099.

Submit Questionnaire and Supporting Documentation

Send signed and completed questionnaire regarding Missouri services and any available supporting documentation (e.g. written agreements, contracts, check stubs, copies of paychecks, invoices, business cards, etc.) **within five days** to one of the following:

Mail:

E-mail: esemptax@labor.mo.gov

Fax:

This information is for: Business Worker

Information provided by:

Printed Name

Title

Phone

Date

Signature

DES Use Only: Prepared By _____ Unit _____

Date: _____

Instructions: Complete every question. Use 'U/K' if unknown, or 'N/A' if it does not apply. Separate sheets may be attached to provide additional information, use 'SEE ATTACHED.'

BUSINESS INFORMATION

Name of business (or person) for whom the worker performed services:

Trade name of business if different than above:

Business Mailing Address:

Street:

City:

State:

ZIP Code:

Business Contact Information:

Phone Number:

Fax Number:

E-mail Address:

Website:

Business Missouri State Unemployment Tax Account Number:

Business Federal Employer Identification Number:

Type of business ownership:

Individual

General Partnership

Corporation/S-Corporation

LLC-Sole Proprietorship

LLC-Partnership

LLC-Corporation

Limited Partnership

LLP

LLLP

Other (*specify*) _____

Has any other government agency ruled on the status of the business's worker? Yes No

(If Yes, attach a copy of the ruling.)

REPRESENTATIVE WORKER INFORMATION

Name of representative worker:

Worker's Mailing Address:

Street:

City:

State:

ZIP Code:

Worker's Contact Information:

Phone Number:

Fax Number:

E-mail Address:

Website:

Worker's State Unemployment Tax Account Number:

Worker's Federal Employer Identification Number/SSN:

Is the worker still performing services for the business? Yes No

Dates worker performed services:

From

To

Job Title of the class of worker:

Provide the total number of workers who performed or are performing the same or similar services.

A. Describe what the business does in detail.
B. Provide a detailed description of what the worker does for the business.
C. How did the business learn of the worker's services?
D. Did the worker perform services for the firm in any capacity before providing the services that are the subject of this investigation? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A If Yes, what were the dates of the prior service? If Yes, explain the differences, if any, between the current and prior service.

BEHAVIORAL CONTROL

1. Describe any training provided and/or arranged by the business for the worker.
2. Describe any written/verbal instructions or procedures given to the worker by the business (e.g. manuals, handbooks).
3. a. Describe if the business has a right to change the methods used by the worker, or direct the worker on how to do the job. b. Describe the services or products checked for completion of desired results by the business.
4. Describe if the business has the right to supervise the worker in the performance of the services, or why the business does not need to supervise the worker.
5. a. Who determines how, when, and/or where the service is performed? b. Explain what procedure is used to change how, when, or where the service is performed (e.g. employer calls worker, worker calls employer, etc.).

6. Is the worker allowed to utilize helpers to perform the work? <input type="checkbox"/> Yes <input type="checkbox"/> No
7. If the worker utilizes helpers, does the worker have to advise or obtain permission from the business before sending a substitute worker? <input type="checkbox"/> Yes <input type="checkbox"/> No
8. If the worker utilizes helpers, what services do they perform?
9. If the worker is allowed to have helpers, who hires and pays the helpers?
10. Who reports the helpers' earnings to the IRS?
11. Does the worker or the business withhold Medicare taxes and federal income taxes from the helpers pay? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, explain who is responsible to report and pay these taxes.
12. At what location(s) (e.g. jobsite, headquarters, home, on the road) are the services performed?

FINANCIAL CONTROL

13. a. Describe the tools, equipment, supplies, and materials that are required to perform the work, who provides them, and the approximate dollar value. b. If the worker provides tool equipment supplies and materials, does the worker also use them for personal use? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, percentage of time used for personal use? _____
14. Describe the economic loss or financial risk (e.g. loss of equipment, damage to material, poor quality) to the worker other than loss of pay.
15. What expenses are incurred by the worker in the performance of services for the business?
16. What expenses of the worker, if any, are reimbursed by the business?
17. a. Type of pay worker receives: <input type="checkbox"/> Salary <input type="checkbox"/> Commission <input type="checkbox"/> Hourly Wage <input type="checkbox"/> Piecework <input type="checkbox"/> Lump Sum <input type="checkbox"/> Other (<i>specify</i>) _____ b. What is the worker's rate of pay? _____ <input type="checkbox"/> Hourly <input type="checkbox"/> Weekly <input type="checkbox"/> Monthly <input type="checkbox"/> Yearly <input type="checkbox"/> Job c. Can the worker draw advances against future earnings? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, how often does this occur? If Yes, how does the worker repay the advances?

18. What name does the worker perform the services under?

Business Name _____

Worker's Name _____

Other Name (*Explain*) _____

19. Explain how the worker is represented (e.g. shirt with business name, business cards, signs, decals, business invoices, etc.) to the customers of the business.

20. Explain any methods the worker uses to advertise his/her own business (e.g. business cards, newspaper, radio advertising, a business listing in the phone directory, trade journal, etc.).

21. If the worker has a shop or office that is accessible to the public, give the location.

22. Can the worker perform the same or similar services for the public that he or she performs for the business? Yes No
If Yes, explain.

23. Are there any requirements the worker must meet to perform services for the business? Yes No

a. If Yes, explain.

b. Who issues and pays for any required documentation? (e.g. registration, license, etc.)

RELATIONSHIP OF THE PARTIES

24. Describe the terms and conditions of the work arrangement. If the work is performed under a written agreement, attach a copy.

25. Describe any ways the actual work performed differs from the work agreement. Explain why the differences occur.

26. How often does the business engage the worker's service? (This may include work performed frequently, full-time, part-time, recurring, or whenever work is available.)

27. Explain if the business uses this class (type of worker) on a continuous basis or as needed basis.
28. Who establishes the worker's schedule?
29. What are the hours the business normally is open per day and week?
30. What days of the week and hours of the day does the worker perform services for the business? a. How are these days and times determined?
31. In what manner (e.g. in person, in writing, by phone, by invoice, etc) and for what purpose does the worker report to the business or its representative? <i>Attach any forms or papers used in reporting to the business.</i>
32. How does the worker record his/her time? <i>Attach copies of any time record(s) furnished by the worker.</i>
33. What pension, bonus, paid vacations, sick pay, etc. is the worker eligible to receive from the business?
34. Who pays for the worker's coverage by workers' compensation insurance?
35. Who pays for the worker's liability insurance in case of property damage?
36. How does the business report the worker's earnings to the IRS? <i>Attach a copy of any IRS reports.</i>
37. How are Social Security, Medicare, and federal income taxes withheld from the amounts paid to the worker?
38. Does the business bond the worker? <input type="checkbox"/> Yes <input type="checkbox"/> No

<p>39. Does the business have the right to prioritize the worker's time in the performance of the services? <input type="checkbox"/> Yes <input type="checkbox"/> No If No, describe why the business does not need to prioritize the worker's time.</p>
<p>40. What percentage of time does the worker perform services for: a) The Business _____ b) Others _____</p>
<p>41. Describe any conditions prohibiting the worker from competing with the business. (e.g. While performing services for the business or at a later date.)</p>
<p>42. Describe any contractual agreement that would prohibit the business from discharging the worker at any time without incurring a liability.</p>
<p>43. Describe any contractual agreement that would prohibit the worker from terminating the working relationship at any time without incurring a liability.</p>

SUPPORTING DOCUMENTATION FOR THIS CLASS OF WORKER

Separate sheets may be attached to provide additional information regarding the working relationship. Attach copies of all supporting documentation [e.g. contracts, invoices, memos, Forms W-2 or Forms 1099-MISC issued or received, IRS rulings, etc.] In addition, provide detailed information concerning any current or past litigation concerning the worker's status. If both Form W-2 and Form 1099-MISC were issued or received, explain why.

WAGE INFORMATION FOR THIS CLASS OF WORKER

Complete the attached Worker Payment Sheet (additional copies should be completed for all years of service).

ADDITIONAL CLASS(ES) OF WORKERS

Are there additional class(es) of worker(s) ? Yes No
 If Yes, submit a separate questionnaire and Worker Payment Sheet for each class.

Business Name: _____

Worker Payment Sheet for Calendar Year _____

MO SUTA Number: _____

Worker Information	State(s) Where Performed Services <i>(List abbrev for each state)</i>	Method of Payment <i>Cash, Check, Direct Deposit or In-kind (meals, rent, etc.) (Check all that apply)</i>	IRS Tax Reporting <i>(1099, W2, Not Reported)</i>	Gross Amounts Paid Per Quarter			
				1st <i>Jan 1 to March 31</i>	2nd <i>April 1 to June 30</i>	3rd <i>July 1 to Sept 30</i>	4th <i>Oct 1 to Dec 31</i>
Last Name: First Name: SSN: Address Line 1: Address Line 2: City: State: ZIP Code: Phone Number: Job Title:		<input type="checkbox"/> Cash <input type="checkbox"/> Check <input type="checkbox"/> Direct Deposit <input type="checkbox"/> In Kind (Meals, Rent) <input type="checkbox"/> Other _____	<input type="checkbox"/> 1099 <input type="checkbox"/> W2 <input type="checkbox"/> Not Reported				
Last Name: First Name: SSN: Address Line 1: Address Line 2: City: State: ZIP Code: Phone Number: Job Title:		<input type="checkbox"/> Cash <input type="checkbox"/> Check <input type="checkbox"/> Direct Deposit <input type="checkbox"/> In Kind (Meals, Rent) <input type="checkbox"/> Other _____	<input type="checkbox"/> 1099 <input type="checkbox"/> W2 <input type="checkbox"/> Not Reported				
Last Name: First Name: SSN: Address Line 1: Address Line 2: City: State: ZIP Code: Phone Number: Job Title:		<input type="checkbox"/> Cash <input type="checkbox"/> Check <input type="checkbox"/> Direct Deposit <input type="checkbox"/> In Kind (Meals, Rent) <input type="checkbox"/> Other _____	<input type="checkbox"/> 1099 <input type="checkbox"/> W2 <input type="checkbox"/> Not Reported				
Last Name: First Name: SSN: Address Line 1: Address Line 2: City: State: ZIP Code: Phone Number: Job Title:		<input type="checkbox"/> Cash <input type="checkbox"/> Check <input type="checkbox"/> Direct Deposit <input type="checkbox"/> In Kind (Meals, Rent) <input type="checkbox"/> Other _____	<input type="checkbox"/> 1099 <input type="checkbox"/> W2 <input type="checkbox"/> Not Reported				