From a tax perspective, the general premise of each PSA is determining the control of the services to be provided in categorizing the payee as an independent contractor or employee. Independent contractors are taxed differently from employees, and substantial penalties could be imposed upon MUSC if the wrong classification is made. According to the IRS, there are three basic categories one should consider when assessing whether a person is an employee or independent contractor: behavior controls, financial controls and the relationship. Each is described briefly below.

**INDEPENDENT CONTRACTOR** - An individual over whom the employer has the right to control or direct only the result of the work and not the means and methods of accomplishing the result.

*Behavior Control* – the individual controls how, when and where the work will be done. He or she provides his/her own supplies, equipment or tools, hires subcontractors to assist with the work and pays for his/her own training.

*Financial Control* – the individual is not reimbursed for items such as supplies, tools or travel. The individual is in business for his or herself with the goal of earning a profit.

*Relationship* – individual is responsible for his/her own insurance, workers’ compensation and other paid benefits. Generally, the only benefit the individual should receive is payment for his/her services. The contract usually has an estimated beginning and end date.

*Reporting* – payee is generally issued a Form 1099-MISC. Individual is responsible for paying self-employment taxes (15.3%). Individual may deduct business expenses related to the contract on his or her tax return.

**EMPLOYEE** - An individual who performs services that are subject to the will and control of an employer – both what must be done and how it must be done. The employer can allow the employee considerable discretion and freedom of action, so long as the employer has the legal right to control both the method and the result of the services.

*Behavior Control* – Payer directly supervises how, when and where the work will be done. Payer provides resources necessary to complete the job. Payee receives training and specific instructions on how to complete the job.

*Financial Control* – payee is reimbursed for any out-of-pocket expenses, including travel. Payee does not recognize profit or loss as a result of the completion of the job.

*Relationship* – payee is eligible to receive benefits such as health insurance, workers’ comp, retirement and paid leave. Contract may not have specific end date.
**Reporting** – payee receives W-2, withholds federal and state income taxes on income and is responsible for paying FICA taxes (6.2%).

It is important to remember that while some contracts may meet one or two characteristics that fall under the same classification, it does not necessarily translate to the individual being classified as such. All contracts are unique and the distinction between the two is not always clear. The MUSC Employee Independent Contractor Classification Checklist (see link to EICC form below) should be completed with careful consideration to each scenario. In addition, MUSC needs to determine where the work will be done. In other words, if the individual is to be performing services, totally or partially, on the MUSC campus, a background check needs to be administered to satisfy Human Resource policy. A Form W-9 (or Form W8-BEN if the individual is a non-resident) should also be obtained to confirm taxpayer identification number. Terms of each contract need to be thorough and descriptive so the Tax Office is fully aware of the all the duties that will be performed. Once all data has been gathered and is complete pertaining to the contract, the Tax Office will determine the proper classification of the payee.

For more information on independent contractors or employees, visit:


EICC Form
[http://academicdepartments.musc.edu/hr/university/forms/Ind%20Contractor%20or%20EE%20Form%202013.pdf](http://academicdepartments.musc.edu/hr/university/forms/Ind%20Contractor%20or%20EE%20Form%202013.pdf)

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