

Employee or Independent Contractor?

MGL 149 Section 148B.

(a) For the purpose of this chapter and chapter 151, **an individual performing any service, except as authorized under this chapter, shall be considered to be an employee under those chapters unless:--**

(1) the individual is free from control and direction in connection with the performance of the service, both under his contract for the performance of service and in fact; and

(2) the service is performed outside the usual course of the business of the employer; and,

(3) the individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed.

(b) The failure to withhold federal or state income taxes or to pay unemployment compensation contributions or workers' compensation premiums with respect to an individual's wages shall not be considered in making a determination under this section.

(c) An individual's exercise of the option to secure workers' compensation insurance with a carrier as a sole proprietor or partnership pursuant to subsection (4) of section 1 of chapter 152 shall not be considered in making a determination under this section.

All THREE characteristics MUST apply simultaneously in order for an individual to be considered an independent contractor and NOT an "employee". Individuals ruled to be employees, by Massachusetts law, must be covered under an employer's workers compensation insurance policy,

A complete copy of MGL 149 Section 148B is available upon request.