WORKER CLASSIFICATION AND PAYMENT

Policy Summary

Each Individual Service Provider ("Worker") must be properly classified as an Employee or Independent Contractor in accordance with federal and state tax and employment laws. Departments that engage Workers must submit the required documentation for determination of each Worker’s status before any services are performed or payment requests are processed. All individuals who perform services for the university are presumed to be Employees unless the relationship satisfies Internal Revenue Service (IRS) and related common law standards for Independent Contractor status. This policy applies to payments to individuals, sole proprietors, and LLC’s treated as individuals for federal tax purposes, for services. This policy does not apply to payments made to a corporation for an individual’s services or to payments for goods/merchandise.

Related Regulations

This policy is required to comply with tax and employment laws and regulations concerning the classification of a Worker as an Employee versus an Independent Contractor, and to promote timely payments to Workers. Proper classification of a Worker determines the university’s tax withholding and reporting obligations and the system (Payroll v. Accounts Payable) from which the Worker should be paid. Misclassification of Employees as Independent Contractors results in a failure to withhold and remit income and employment taxes and exposes the university to assessments of tax, penalties and interest by the IRS and other tax authorities, as well as claims by misclassified Workers.

Who is Governed by this Policy

Faculty and staff
Policy

Classifying the Service Provider

The procurement of services from an individual requires an evaluation of whether a Worker should be classified as an Employee or as an Independent Contractor. This evaluation and classification must be performed before engaging the individual to perform services so that the university can comply with its tax withholding and reporting responsibilities, and so payment to the Worker will not be delayed. The evaluation must be based upon the IRS and related standards (see Related Information below), and not upon administrative ease, budget constraints or funding guidelines.

Individuals who perform services for the university are presumed to be Employees of the university unless the relationship satisfies the IRS standards for Independent Contractors. The primary difference in these two business relationships is in the degree of control the university exercises over the Worker. Employees are paid through payroll and the university must withhold income and employment taxes, while an Independent Contractor is paid via accounts payable without tax withholding. In general, an Independent Contractor is engaged when the services needed are urgent, special, temporary, or highly technical and cannot be performed economically or satisfactorily by university staff members within the scope of their job responsibilities.

Further details regarding Employees and Independent Contractors are set forth in the Definitions section of this policy, and in Definitions of Types of Employees and Contractors.

Departments initiate the classification process by completing the Worker Classification Process outlined on the Worker Classification website. The tax department will review the documentation submitted and provide a basis for the determination.

Special Considerations

A. Research

Research grants often require reports, presentations, and/or review by experts not employed at the university. An expert has specialized knowledge directly related to the science and scope of a project. Although they generally do not operate businesses, they can qualify as Independent Contractors if the university does not control their activities. Please see Appendix A for information about retaining current Employees or recently
departed former Employees as Independent Contractors in order to conduct research.

B. Payments to Students

Students generally do not qualify to be treated as Independent Contractors. Exceptions require the advance approval of the tax department. here.

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Definitions

**Employee:** A person hired through Human Resources and paid via payroll. The university controls and directs the Service Provider’s activities, both in terms of what must be done and how it must be done. An Employee may be full-time, part-time or hourly and the position may or may not be benefit eligible.

**Independent Contractor:** Also commonly referred to as; contractor, consultant, freelancer, etc. Independent Contractors are individuals, sole proprietorships, LLC’s treated as individuals for federal tax purposes, etc., which render services to the general public. Contractors are responsible for the means and methods for completing a task based on specifications in a contract with the university. Contractors generally have multiple clients, maintain a separate workplace and are not directly supervised or controlled by university Employees. Independent Contractors do not receive university benefits. See Appendix A for additional detailed definitions and examples.

**Service Provider or Worker:** An individual about whom a determination is being made as to whether he/she is an Employee or Independent Contractor.

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Procedures

https://taxdepartment.gwu.edu/worker-classification

Forms

*International Engagement Guidelines, Request Letter and Form*

*Worker Classification Review*

Related Information

*IRS Guidance – Independent Contractor (Self-Employed) or Employee*

*IRS Publication 15-A, Employer's Supplemental Tax Guide*
**IRS Publication, Independent Contractor or Employee**

**Accounts Payable Services**

**Procurement and Travel Services**

**Tax Department – Worker Classification**

## Contacts

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<thead>
<tr>
<th>Contact</th>
<th>Telephone</th>
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<tbody>
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*Reporting of non-compliance with this policy can be done through the Office of Ethics, Compliance, and Privacy website.*