

## R I G H T R I S K N E W S

### Employees vs. Independent Contractors on the Farm or Ranch: A Risk Management Perspective

In the agricultural world, labor is the backbone of productivity. Whether it's planting, harvesting, equipment maintenance, or livestock care, farmers and ranchers rely on human hands to keep operations running. However, not all workers are the same in the eyes of the law—or in terms of the risks they bring to a farm business. Understanding the difference between an employee and an independent contractor is essential for effective risk management on the farm.

#### Employee

An employee is someone hired by a farm to perform work under the direction and control of the employer. The farmer dictates how, when, and where the work is done. Employees are typically integrated into the daily operations of the farm or ranch and are subject to workplace rules, schedules, and supervision.

Employees are entitled to a wide range of protections under federal and state labor laws, such as minimum wage and overtime pay, unemployment insurance, family and medical leave, and anti-discrimination protections. Employers are responsible for withholding income taxes, Social Security, and Medicare contributions from employees' wages. They must also pay unemployment taxes and often provide benefits such as health insurance and retirement plans.

#### Independent Contractor

An independent contractor, by contrast, is a self-employed individual or business entity. They are hired to perform a specific task or service. Contractors operate with a high degree of autonomy: they decide how to complete the work, use their own tools or equipment, and often work for multiple clients simultaneously.

Independent contractors are not covered by most labor laws that protect employees. They are responsible for paying their own income and self-employment taxes, providing their own insurance, supplying their own tools and equipment, and managing their own business expenses. Because they are not considered employees, contractors do not receive benefits such as paid leave, health insurance, or employer-sponsored retirement plans.

#### Differences Between Employees and Independent Contractors

ASPECT	EMPLOYEE	INDEPENDENT CONTRACTOR
<b>Control</b>	Employer controls how, when, and where work is done.	Contractor controls how and when work is done.
<b>Tools &amp; Equipment</b>	Provided by the employer.	Provided by the contractor.
<b>Taxes</b>	Employer withholds and pays payroll taxes.	Contractor pays self-employment taxes.
<b>Benefits</b>	Eligible for benefits like health insurance and paid leave.	Not eligible for employer-provided benefits.
<b>Job Security</b>	Often ongoing or permanent.	Typically project-based or temporary.
<b>Legal Protection</b>	Covered by state and federal labor laws.	Not covered by most labor laws.



How Much Risk is Right for You?

#### Determining the Differences

Determining whether a worker is an employee or an independent contractor is not always straightforward. The Internal Revenue Service (IRS) uses a three-pronged test:

1. *Behavioral Control* – Does the business control how the worker does their job?

2. *Financial Control* – Does the business control the financial aspects of the worker’s job (e.g., how they are paid, whether expenses are reimbursed)?
3. *Type of Relationship* – Are there written contracts or employee-type benefits? Is the relationship ongoing?

The Economic Reality Test, used by the Department of Labor (DOL), examines whether the worker is economically dependent on the employer. If the worker relies on the farm for their livelihood and lacks independence in how they operate, they are likely an employee. Factors determining the difference include the opportunity for profit or loss, investment in equipment or materials, degree of permanence in the relationship, the nature and degree of control, and whether the work is integral to the business.

The following scenarios illustrate how the tests apply in practice. The risk can be managed by clearly defining the working relationship and ensuring compliance with labor laws.

1. *Hiring a Seasonal Field Worker*: If a farmer hires someone to pick crops every day for several weeks, provides tools, sets the schedule, and supervises the work, that person is likely an employee. The farmer must withhold taxes and provide workers’ compensation coverage.
2. *Hiring a Fencing Contractor*: If the rancher hires a company to install fencing, and the contractor brings his own crew, tools, and sets the schedule, he is likely a true independent contractor. The farmer pays a flat fee and has no further obligations.

Test	Key Questions	Interpreting the Answers
<b>IRS Three-Factor Test</b>	<ul style="list-style-type: none"> <li>• Behavioral control</li> <li>• Financial control</li> <li>• Type of relationship</li> </ul>	The more control you exert, the more likely the worker is an employee.
<b>DOL Economic-Reality Test</b>	<ul style="list-style-type: none"> <li>• Is the worker economically dependent on you?</li> <li>• Opportunity for profit or loss?</li> <li>• Worker’s investment?</li> <li>• Permanence of the relationship?</li> <li>• Degree of control?</li> <li>• Is the work integral to the business?</li> </ul>	Economic dependence points toward employee status; independence toward contractor status.

**How Regulators Decide**

Regulators look past titles and contracts to the facts of the working relationship:

Misclassifying a worker can trigger IRS back taxes and penalties, DOL wage claims, and state workers’-comp fines—often years after the work is finished. Possible consequences of misclassification include:

- *Financial*: Back wages, overtime, payroll taxes, interest, and penalties.

- *Insurance*: Retroactive workers’-comp premiums and fines.
- *Liability*: Injuries or damages caused by a worker can be imputed to the farm.
- *Reputation & Audit Risk*: Regulatory scrutiny and strained worker relations.

**Risk Management Strategies for Farmers**

From a risk management standpoint, the key difference lies in control and liability. Farmers who hire an employee assume greater responsibility for that worker’s actions. If an employee is injured on the job or causes damage, the farm may be held liable. This is why farms with employees must carry workers’ compensation insurance and comply with safety regulations.

With independent contractors, the risk is more distributed. Contractors are generally responsible for their own insurance and safety practices. However, if a contractor is misclassified and later deemed to be an employee, the farm could be retroactively liable for taxes, insurance, and penalties. This is a risk that must be managed proactively.

To reduce the risk of misclassification and legal exposure, farmers should adopt the following risk management practices:

- *Document the Relationship*: Use written contracts that clearly define the scope of work, payment terms, and the independent nature of the contractor’s role. While not definitive, contracts can support your classification decision.
- *Avoid Control Over Contractors*: If you hire a contractor, resist the urge to micromanage. Let them determine how to complete the work. Providing tools, training, or setting strict schedules may blur the lines and increase the risk of reclassification.
- *Consult Legal and Tax Professionals*: Labor laws vary by state and can be complex. An attorney or accountant familiar with farming and labor laws can help assess your labor practices and ensure compliance.
- *Carry Appropriate Insurance*: Even with contractors,





it's wise to require proof of liability and workers' compensation insurance. This protects the farm if the contractor is injured or causes damage.

- *Stay Informed:* Labor laws evolve, especially in agriculture where exemptions and special rules may apply. Regularly review guidance from the IRS, DOL, and your state's labor agency.

Misclassifying a worker can lead to serious consequences. The IRS may demand back taxes, interest, and penalties. The DOL may require back wages and damages. Workers' compensation boards may impose fines for lack of coverage. These financial risks can be devastating for small farms operating on tight margins.

Beyond the financial impact, misclassification can damage a farm's reputation and relationships with workers. It may also lead to increased scrutiny from regulators, adding stress and uncertainty to the business.

### Balancing Flexibility and Compliance

Many farmers appreciate the flexibility that independent contractors offer. They can be hired for specific projects, require less paperwork, and reduce overhead costs. However, this flexibility must be balanced with legal compliance and thoughtful risk management.

In some cases, it may be worth the added cost and responsibility to hire an employee, especially if the worker is integral to daily operations. In other cases, a contractor may be the right fit for specialized or short-term tasks. The key is to make informed decisions based on the nature of the work and the level of control involved.

Farmers and ranchers will find *Ag Help Wanted: Guidelines for Managing Agricultural Labor* (AgHelpWanted.org) a useful resource for managing human resources. *Rural Tax* (RuralTax.org and the Internal Revenue Service (IRS.gov) are very useful resources for understanding and following tax codes pertaining to employees and contractors.



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### NEWS RELEASE - JUNE 9 | RIGHTRISK Federal Reserve: Agricultural Sector & Ag Finance Update

AGRICULTURAL CREDIT CONDITIONS continued to weaken nationwide in the first quarter of 2025, driven by declining farm incomes, increased loan demand, and tighter credit standards. While all Federal Reserve Districts reported signs of financial stress in the farm sector, regional differences emerged in crop and livestock market performance, loan accessibility, and land value trends. These developments underscore growing concerns about farm profitability and liquidity heading into the 2025 growing season . . .



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*How much risk is right for you and your operation?*



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