

Worker Misclassification State Agency Test Comparison

Control	Test Question	Answer	State Agency	Determination	Authority - Guiding Statutes and Rules (Federal and State)
BEHAVIORAL CONTROL	Does the employer control the means and manner of the worker's performance?	Yes	DLI	Employee	Minnesota Administrative Rule 5224 0330 (subp 1 states subps 2-14 are the criteria for determining this)
			DEED	Employee	Minnesota Administrative Rule 3315 0555, Subp 1(A)
			DOR	Employee	IRS Common Law Rules - Behavioral Control (§ 31 3401(c)-1(b) Employee)
	Is the worker required to follow detailed instructions provided by the employer on how the work should be done?	Yes	DLI	Employee	Minnesota Administrative Rule 5224 0330, Subp 3
			DEED	Employee	Minnesota Administrative Rule 3315 0555, Subp 1(A)
			DOR	Employee	IRS Common Law Rules - Behavioral Control (§ 31 3401(c)-1(b) Employee)
	Can the employer terminate the worker with little or no notice, or with or without cause?	Yes	DLI	Employee	Minnesota Administrative Rule 5224 0340, Subp 2
			DEED	N/A	Minnesota Administrative Rule 3315 0555, Subp 1(B)
			DOR	Employee	IRS Common Law Rules - Behavioral Control (§ 31 3401(c)-1 (b) Employee)
	Does the employer determine the location where the work is to be performed, when the work could be done elsewhere?	Yes	DLI	Employee	Minnesota Administrative Rule 5224 0330, Subp 5
			DEED	Employee	Minnesota Administrative Rule 3315 0555, Subp 1(E)
			DOR	Employee	IRS Common Law Rules - Behavioral Control (§ 31.3401(c)-1(b) Employee) "Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of a place to work to the individual who performs the services "
	Is the worker required to devote all of their working hours toward completing the employer's tasks?	Yes	DLI	Employee	Minnesota Administrative Rule 5224 0330, Subp 10
			DEED	N/A	Minnesota Administrative Rule 3315 0555, Subp 1 " Other factors, not specifically identified in this part, may be considered if the outcome is inconclusive when applying the factors in items A to E The degree of their importance may vary depending upon the occupation or work situation being considered and why the factor is present in the particular situation "
			DOR	Employee	IRS Common Law Rules - Behavioral Control
	Does the worker perform services for multiple persons or firms at the same time?	Yes	DLI	Independent Contractor	Minnesota Administrative Rule 5224 0330, Subp 11
			DEED	N/A	Minnesota Administrative Rule 3315 0555, Subp 1 " Other factors, not specifically identified in this part, may be considered if the outcome is inconclusive when applying the factors in items A to E The degree of their importance may vary depending upon the occupation or work situation being considered and why the factor is present in the particular situation "
			DOR	Independent Contractor	IRS Common Law Rules - Behavioral Control
	Must the worker personally perform the work as opposed to hiring a substitute?	Yes	DLI	Employee	Minnesota Administrative Rule 5224 0330, Subp 6
			DEED	Employee	Minnesota Administrative Rule 3315 0555, Subp 1(A)
			DOR	Employee	IRS Common Law Rules - Behavioral Control
Is the worker required to submit regular reports or updates relating to the methods of performance to the employer?	Yes	DLI	Employee	Minnesota Administrative Rule 5224 0330, Subp 4	
		DEED	Employee	Minnesota Administrative Rule 3315 0555, Subp 1(A)	
		DOR	Employee	IRS Common Law Rules - Behavioral Control	
Is the worker required to follow a set schedule established by the employer or to work at certain times?	Yes	DLI	Employee	Minnesota Administrative Rule 5224 0330, Subp 8	
		DEED	Employee	Minnesota Administrative Rule 3315 0555, Subp 1(E)	
		DOR	Employee	IRS Common Law Rules - Behavioral Control	
Is the employer responsible for the negligence, personal behavior, and work actions of the worker?	Yes	DLI	Employee	Minnesota Administrative Rule 5224 0340, Subp 8	
		DEED	N/A	Minnesota Administrative Rule 3315 0555, Subp 1 " Other factors, not specifically identified in this part, may be considered if the outcome is inconclusive when applying the factors in items A to E The degree of their importance may vary depending upon the occupation or work situation being considered and why the factor is present in the particular situation "	
		DOR	Employee	IRS Common Law Rules - Behavioral Control	
Does the employer provide training on how to perform the work?	Yes	DLI	Employee	Minnesota Administrative Rule 5224 0330, Subp 9	
		DEED	Employee	Minnesota Administrative Rule 3315 0555, Subp 1(A)	
		DOR	Employee	IRS Common Law Rules - Behavioral Control	

FINANCIAL CONTROL

FINANCIAL CONTROL	Is the worker paid per job or project with a fixed amount agreed upon in advance?	Yes	DLI	Independent Contractor	Minnesota Administrative Rule 5224 0340, Subp 4
			DEED	Independent Contractor	Minnesota Administrative Rule 3315 0555, Subp 1(C)
			DOR	Independent Contractor	IRS Common Law Rules - Financial Control
	Does the worker need to use specific tools or equipment provided by the employer?	Yes	DLI	Employee	Minnesota Administrative Rule 5224 0330, Subp 12
			DEED	Employee	Minnesota Administrative Rule 3315 0555, Subp 1(D)
			DOR	Employee	IRS Common Law Rules - Financial Control
	Is the worker reimbursed for business expenses by the employer?	Yes	DLI	Employee	Minnesota Administrative Rule 5224 0330, Subp 13
			DEED	N/A	Minnesota Administrative Rule 3315 0555, Subp 1 " Other factors, not specifically identified in this part, may be considered if the outcome is inconclusive when applying the factors in items A to E The degree of their importance may vary depending upon the occupation or work situation being considered and why the factor is present in the particular situation "
			DOR	Employee	IRS Common Law Rules - Financial Control
Does the employer hire, pay, and supervise the worker's assistants?	Yes	DLI	Employee	Minnesota Administrative Rule 5224 0330, Subp 2	
		DEED	Employee	Minnesota Administrative Rule 3315 0555, Subp 1(A)	
		DOR	Employee	IRS Common Law Rules - Financial Control	
Does the worker advertise their services or maintain a business presence such as a website or office?	Yes	DLI	Independent Contractor	Minnesota Administrative Rule 5224 0340, Subp 3	
		DEED	N/A	Minnesota Administrative Rule 3315 0555, Subp 1 " Other factors, not specifically identified in this part, may be considered if the outcome is inconclusive when applying the factors in items A to E The degree of their importance may vary depending upon the occupation or work situation being considered and why the factor is present in the particular situation "	
		DOR	Independent Contractor	IRS Common Law Rules - Financial Control	
Does the worker make their services available to the general public or other clients?	Yes	DLI	Independent Contractor	Minnesota Administrative Rule 5224 0340, Subp 3	
		DEED	N/A	Minnesota Administrative Rule 3315 0555, Subp 1 " Other factors, not specifically identified in this part, may be considered if the outcome is inconclusive when applying the factors in items A to E The degree of their importance may vary depending upon the occupation or work situation being considered and why the factor is present in the particular situation "	
		DOR	Independent Contractor	IRS Common Law Rules - Financial Control	
Is the worker responsible for their own business expenses, including maintenance and operational costs?	Yes	DLI	Independent Contractor	Minnesota Administrative Rule 5224 0340, Subp 5	
		DEED	Independent Contractor	Minnesota Administrative Rule 3315 0555, Subp 1(D)	
		DOR	Independent Contractor	IRS Common Law Rules - Financial Control	
Can the worker realize a profit or incur a loss based on their performance or business operations unrelated to piecework or commission?	Yes	DLI	Independent Contractor	Minnesota Administrative Rule 5224 0340, Subp 5	
		DEED	N/A	Minnesota Administrative Rule 3315 0555, Subp 1 " Other factors, not specifically identified in this part, may be considered if the outcome is inconclusive when applying the factors in items A to E The degree of their importance may vary depending upon the occupation or work situation being considered and why the factor is present in the particular situation "	
		DOR	Independent Contractor	IRS Common Law Rules - Financial Control	
Does the worker purchase or lease their own equipment necessary for the job?	Yes	DLI	Independent Contractor	Minnesota Administrative Rule 5224 0340, Subp 7	
		DEED	Independent Contractor	Minnesota Administrative Rule 3315 0555, Subp 1(D)	
		DOR	Independent Contractor	IRS Common Law Rules - Financial Control	
Does the worker have a significant financial investment in their own facilities or equipment?	Yes	DLI	Independent Contractor	Minnesota Administrative Rule 5224 0340, Subp 7	
		DEED	N/A	Minnesota Administrative Rule 3315 0555, Subp 1 " Other factors, not specifically identified in this part, may be considered if the outcome is inconclusive when applying the factors in items A to E The degree of their importance may vary depending upon the occupation or work situation being considered and why the factor is present in the particular situation "	
		DOR	Independent Contractor	IRS Common Law Rules - Financial Control	

RELATIONSHIP	Does the worker have an ongoing, continuous relationship with the employer?	Yes	DLI	Employee	Minnesota Administrative Rule 5224 0330, Subp 7
			DEED	N/A	Minnesota Administrative Rule 3315 0555, Subp 1 " Other factors, not specifically identified in this part, may be considered if the outcome is inconclusive when applying the factors in items A to E The degree of their importance may vary depending upon the occupation or work situation being considered and why the factor is present in the particular situation "
			DOR	Employee	IRS Common Law Rules - Type of Relationship
RELATIONSHIP	Does the worker hold a business license?	Yes	DLI	Independent Contractor	Minnesota Administrative Rule 5224 0340, Subp 3
			DEED	N/A	Minnesota Administrative Rule 3315 0555, Subp 1- " Other factors, not specifically identified in this part, may be considered if the outcome is inconclusive when applying the factors in items A to E The degree of their importance may vary depending upon the occupation or work situation being considered and why the factor is present in the particular situation "
			DOR	N/A	Licenses are not mentioned in Common Law Rules
RELATIONSHIP	Does the worker have the right to terminate their working relationship with the employer without incurring liability for noncompletion?	Yes	DLI	Employee	Minnesota Administrative Rule 5224 0340, Subp 6
			DEED	Employee	Minnesota Administrative Rule 3315 0555, Subp 1(B)
			DOR	Employee	IRS Common Law Rules - Type of Relationship
RELATIONSHIP	Is the worker liable for failure completing a specific project or job to the satisfaction of the employer?	Yes	DLI	Independent Contractor	Minnesota Administrative Rule 5224 0340, Subp 6
			DEED	N/A	Minnesota Administrative Rule 3315 0555, Subp 1 " Other factors, not specifically identified in this part, may be considered if the outcome is inconclusive when applying the factors in items A to E The degree of their importance may vary depending upon the occupation or work situation being considered and why the factor is present in the particular situation "
			DOR	Independent Contractor	IRS Common Law Rules - Type of Relationship
RELATIONSHIP	Is the control a result of the employer being required to enforce the standards or restrictions imposed by regulatory or licensing agencies?	Yes	DLI	Indicates Neither	Minnesota Administrative Rule 5224 0330, Subp 14
			DEED	N/A	Minnesota Administrative Rule 3315 0555, Subp 1 " Other factors, not specifically identified in this part, may be considered if the outcome is inconclusive when applying the factors in items A to E The degree of their importance may vary depending upon the occupation or work situation being considered and why the factor is present in the particular situation "
			DOR	Indicates Neither	Not mentioned in IRS Common Law Rules
RELATIONSHIP	Are the worker's services necessary to the employer's fundamental business operations?	Yes	DLI	Employee	Minnesota Administrative Rule 5224 0340, Subp 9
			DEED	N/A	Minnesota Administrative Rule 3315 0555, Subp 1 " Other factors, not specifically identified in this part, may be considered if the outcome is inconclusive when applying the factors in items A to E The degree of their importance may vary depending upon the occupation or work situation being considered and why the factor is present in the particular situation "
			DOR	Employee	IRS Common Law Rules - Type of Relationship

Disclaimer: This test tool reflects general questions DLI, DEED, and DOR are reviewing to determine a worker's classification. It does not include industry specific test questions and questions other than those listed may be considered to determine a worker's classification. The weight each of these questions carry when determining a worker's classification is unique to the situation being reviewed and varies.

STATE AGENCY KEY		
DLI	Department of Labor and Industry	Workers' Compensation
DEED	Department of Employment and Economic Development	Unemployment Insurance
DOR	Department of Revenue	Income Tax Withholding