



OVERVIEW OF INDEPENDENT CONTRACTOR CLASSIFICATION POLICY

**Drexel University
Drexel University Online, LLC
The Academy of Natural Sciences**

October 3, 2018

**Donna L. Mann
Director, Office of Tax Compliance**



TRAINING OBJECTIVES

- **What is the classification process?**
- **Why is it important?**
- **Who does it apply to?**
- **Guidelines for determining independent contractor status**
- **Special situations**
- **Process walk-through**

WHAT IS THE INDEPENDENT CONTRACTOR CLASSIFICATION PROCESS?



The independent contractor classification process determines if a service provider is...

- An employee subject to tax withholding (receives a W-2 Form),
OR
- An independent contractor responsible for paying their own taxes (receives Form 1099-MISC).



WHY IS IT IMPORTANT?

- **Independent contractor classification is a frequent area of audit by the IRS.**
- **Misclassification as an independent contractor could place the University at risk of assessment of significant amounts of taxes, interest and penalties.**
- **The independent contractor classification process also ensures that Drexel is in compliance with federal and state guidelines for consistent and fair classification of workers.**



WHO DOES THE PROCESS APPLY TO?

The following entity types will always be considered independent contractors. The independent contractor certification process is not required for these types of vendors:

- **C Corporations**
- **S Corporations**
- **Partnerships**



WHO DOES THE PROCESS APPLY TO?

The following entity types or persons may be classified as independent contractors. As careful consideration of facts and circumstances is required for appropriate classification, all vendors that fall into the categories listed below must complete the independent contractor classification process:

- **Limited liability companies ('LLCs')**
- **Sole proprietors**
- **Individuals**

If you are unsure whether a particular service provider needs to complete the independent contractor certification process, please contact the Office of Tax Compliance for guidance.

GUIDELINES FOR DETERMINING STATUS



The more control the University has over a service provider, the more likely it is that the service provider will be an employee rather than an independent contractor. Common law factors for determining independent contractor status fall into three categories:

- **Behavioral control**
- **Financial control**
- **Relationship between the parties**



GUIDELINES – BEHAVIORAL CONTROL

- **Relates to whether the University has a right to direct and control how the services will be performed.**
- **In general, anyone who performs services for the University is an employee if the University has the right to control what will be done and how it will be done.**



GUIDELINES – FINANCIAL CONTROL

Looks at whether a service provider has the ability to affect financial decisions connected with the services performed, such as:

- **Realizing a profit or loss, and**
- **Assuming the cost of unreimbursed expenses.**



GUIDELINES – RELATIONSHIP BETWEEN PARTIES

Looks at how the relationship is perceived, including factors such as:

- **Is there a written contract?**
- **Are benefits are provided?**



SPECIAL SITUATIONS

Current and former employees:

- **The IRS will almost always consider current or former employees who are engaged for work outside their normal duties to be EMPLOYEES.**

Students:

- **Students will most often be characterized as EMPLOYEES.**



SPECIAL SITUATIONS

- **For speakers, lecturers and colloquium participants receiving payments of less than \$600:**
 - **A Certification For Determination of Independent Contractor Status Form is not required.**
 - **A Speakers Agreement is required.**
 - **A W-9 Form is required before payment is issued.**
- **Special rules apply to foreign individual service providers. Business administrators should contact the Office of Tax Compliance prior to the engagement at taxdept@drexel.edu or (215) 895-6880.**

INDEPENDENT CONTRACTOR CLASSIFICATION PROCESS WALK-THROUGH



BEFORE engaging an outside service provider who is an individual, sole proprietor or member of a limited liability company:

1. The **SERVICE PROVIDER** must complete Sections 1 and 2, and complete and sign Section 3 of the *Certification for Determination of Independent Contractor Status* Form. The University employee contracting for the services must complete and sign Section 4. The employee's supervisor must sign Section 5 to attest to the completeness and accuracy of the information provided. The Certification form is available at <http://drexel.edu/tax/independent-contractors/resources/>

INDEPENDENT CONTRACTOR CLASSIFICATION PROCESS WALK-THROUGH



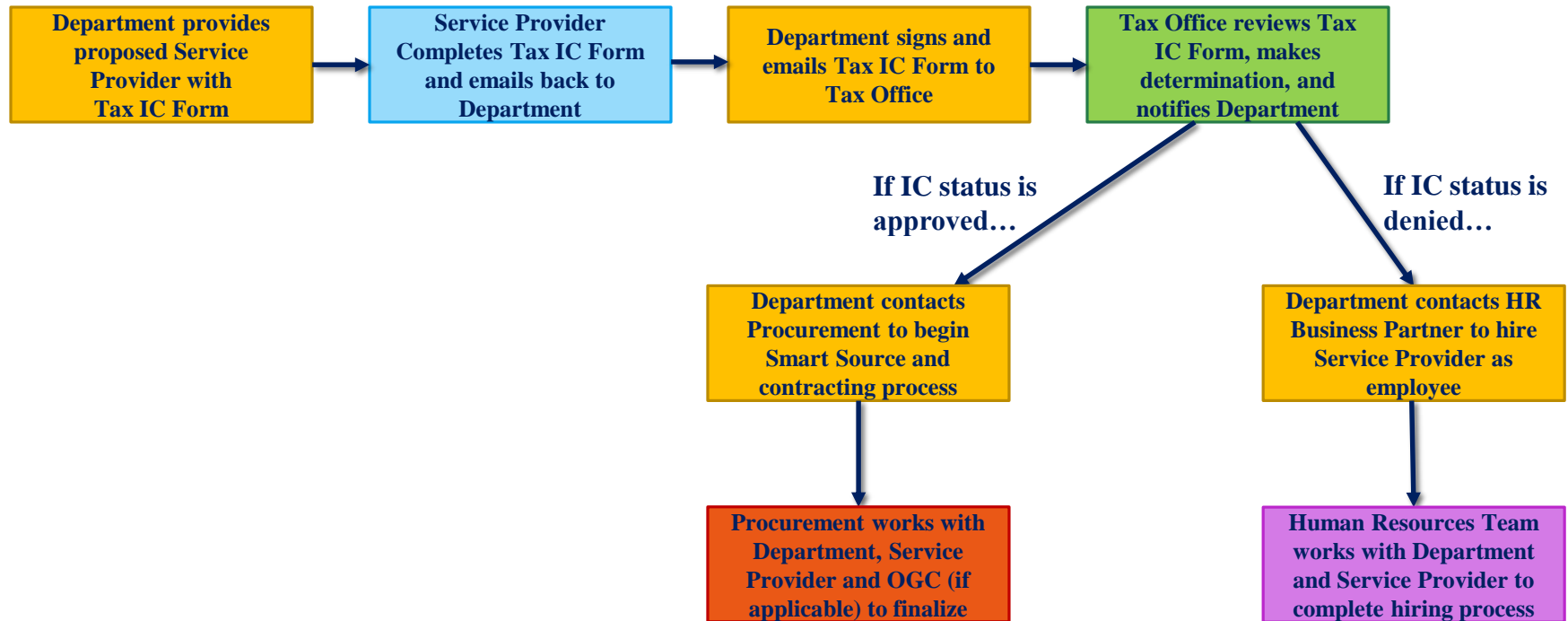
2. Submit the Certification to the University Office of Tax Compliance for review and approval via email to taxdept@drexel.edu. The Office of Tax Compliance will confirm whether the information provided demonstrates that the service provider meets the requirements for classification as an independent contractor and notifies the department if approved or not approved.

INDEPENDENT CONTRACTOR CLASSIFICATION PROCESS WALK-THROUGH



3. If the certification is then approved, Work with Procurement Services for the appropriate legal contract.
 - The service provider must complete an IRS Form W-9, Request for Taxpayer Identification Number and Certification. The W-9 form is available at <http://www.irs.gov/pub/irs-pdf/fw9.pdf?portlet=3>. The W-9 Form must be submitted to Procurement Services before payment is issued.

INDEPENDENT CONTRACTOR CLASSIFICATION PROCESS WALK-THROUGH



CAVEATS

- The *Certification for Determination of Independent Contractor Status* Form is a separate document from the *Drexel University Independent Contractor Service Provider Agreement* listed on the Drexel Office of the General Counsel's website.
- The *Certification for Determination of Independent Contractor Status* is not a contract, but merely the first step in engaging a third party service provider. If the Certification Form is approved, the next step is to contact Procurement to obtain a contract.
- The *Certification for Determination of Independent Contractor Status* is periodically updated based on IRS guidance and University policy. Therefore, the most current version of the form should always be obtained via the Office of Tax Compliance website:
<http://drexel.edu/tax/independent-contractors/resources/>



RESOURCES

Consult: <http://drexel.edu/tax/independent-contractors/resources/>
for the complete Independent Contractor Classification Policy

Office of Tax Compliance:

- Email: taxdept@drexel.edu
- Certification: 215-571-4489
- Foreign Individual Service Providers: 215-895-6880



QUESTIONS & ANSWERS
