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Hiring Trainers for Your Farm: Employee or Independent Contractor?

By Armand Leone, Jr. and Jessica E. Choper | www.EquestrianCounsel.com

As the owner of a boarding or training barn, you're likely going to hire people to give you a hand to help train customers, whether that's a full or part-time trainer. Before you make a hire, you'll also need to consider whether or not you want to bring people on as independent contractors or as employees. Regardless of categorization, you must have workers compensation insurance for your business. Even if you are only paying the worker with a 1099 as an independent contractor, you still need to have workers compensation insurance for any injury that occurs while someone is working at your farm.

Let's consider that you arranged to hire a trainer that will only be working 10-15 hours per week, with the goal of adding hours down the line. Your instinct is to bring this person on as an independent contractor. Initially, this sounds like the best option. However, to really get to that answer, it's important to go over the differences between an employee and an independent contractor and to answer a few questions about the new hire.



Photo courtesy of [Horse Network](#)

If the trainer is hired as an employee, you are legally responsible for paying employment taxes, withholding the trainer's share of employment taxes, and reporting the wages to the government. Additionally, you're required to adhere to any laws related to safety, wages, and hours, and if the trainer is injured at your barn, you could be legally liable.

If the trainer is hired as an independent contractor, they will be responsible for their own tax withholding and their own insurance – and your liability can be greatly limited. Based on this fact alone, you may be inclined to go the independent contractor route, right? Unfortunately, not so fast.

Anyone who wrongly calls an employee an independent contractor risks some serious consequences, such as major financial penalties from the Internal Revenue Service (IRS). That's why it's important to ask yourself the following questions, and if you wish to go the independent contractor route, to set up the relationship accordingly.

Factors that determine whether someone is an independent contractor as opposed to an employee go beyond whether the individual is paid with a W2 or a 1099. If you have a written agreement, it should clearly state that the person is an independent contractor. Of course, actions speak louder than words. The ownership of equipment used and control over income and control over hours also factor into worker status determination.

Will the trainer be using their own tack and horses and/or the tack and horses of the clients they're instructing? Or will they be using your equipment and horses?

If the trainer is utilizing their own property such as equipment and horses or the students' horses, this points more toward an independent contractor relationship. However, the more the trainer is utilizing your property – including horses, the more likely they are to be considered an employee.

Will the trainer have control over how much income they make?

In an independent contractor relationship, the trainer should have a say in how much profit they make on each lesson. For example, the trainer should have the ability to collect the payment from students directly, and they should be able to take on as few or as many clients as they see fit, allowing them to control their income to a degree.

As the barn owner, if you prefer to handle taking payments from students and then pay the trainer your set amount for each lesson, and also want to limit the trainer to only working a set number of hours or lessons per week, as determined by you, then you are looking at more of an employee relationship.

Will you be setting the trainer's hours or, within reason, are they free to schedule the lesson times that best suits them?

The IRS guidelines state, "You are not an independent contractor if you perform services that can be controlled by an employer." If you say, for example, that the trainer must be present from 4-8 pm on Tuesdays and Thursdays to either instruct or to offer assistance at the barn, you are actually controlling the trainer's services and when they must be there, and the IRS is more likely to consider this an employee relationship.

In an independent contractor relationship, the trainer would have the freedom and flexibility to schedule lessons at their own discretion.

Will the trainer be at the barn full-time?

It is important to consider that if the trainer's hours continue to build to the point that they are considered full-time and your farm is their sole place of work, they are far more likely to be considered an employee by the IRS.

After reviewing the above questions related to a trainer's use of property, their hours worked, and their ability to control their income to a degree, you should be able to better identify if the trainer should be an independent contractor. If you do go this direction, remember to ensure that the trainer has their own appropriate liability insurance, and you have workers compensation insurance before they begin work.

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