









Leone Equestrian Law LLC



Hiring Trainers for Your Farm: Employee or Independent Contractor?

By Armand Leone, Jr. and Jessica E. Choper I <u>www.EquestrianCounsel.com</u>

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.

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

If the trainer is hired as an independent contractor, they will be responsible for their

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

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.

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

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

horses?

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.

more likely to be considered an employee by the IRS.

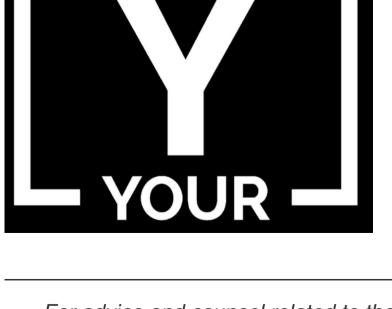
After reviewing the above questions related to a trainer's use of property, their hours worked, and their ability to control their income to a degree, you should be able to

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.

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

This article originally ran on <u>Horse Network</u> on April 6, 2021.



WHAT'S

Will the trainer be at the barn full-time?

his dynamic horse sport career—from international show jumping competitor to numerous roles in governance.

Stay Tuned: Armand Leone on

What's Your Why

Armand Leone joins Helen Dillon of the What's Your Why podcast to talk about

numerous roles in governance.

The episode drops on Thursday, April 15, 2021. Click to tune in, and listen to other episodes in the meantime!

Listen Here

For advice and counsel related to the equestrian industry, contact Leone Equestrian Law at info@equestriancounsel.com.

Led by Armand Leone, Jr., MD, JD, MBA, Leone Equestrian Law LLC provides legal services and consultation for equestrian professionals ranging from riders and trainers to owners and show managers in the FEI disciplines on a wide variety of

175 Rock Road - Glen Rock, NJ 07452 - 201.444.6444

issues.

Visit **www.equestriancounsel.com** to learn more.