

### Grower vendor checklist

- Uses own equipment & tools
- Uses own land
- Owner or employees plant
- Owner or employees irrigate (if necessary)
- Owner or employees harvest
- Owner or employees perform post-harvest handling and packing
- Owner actively manages production (assessment, decision making, and day-to-day)

### Instances when we would we request changes to practice:

- Vendor is active in production less than 50% of the time that it takes to get product from farm to market
- Less than ----- of the Grower checklist applies
- Using land not their own with no lease on file with the market. Lease should detail responsibilities of both leaser and lessee
- An employee in the above checklist must either be an official legal employee, or take direction/answer to the owner on a regular basis. An employee is NOT an independent contractor (say more here?)
- The vendor or representative at market, that is benefitting from the sales, is not a direct employee or owner of the business

Honey. Minimum: Perform majority of hive checks and week-to-week management of the bees. Active in 50% or more of the time it that it takes to get product from farm to market.

Preferred: Minimum +

- Perform own honey extraction
- Perform own bottling
- Manage bee yard/land around hives
- Perform mite control, hive treatments

Maple syrup. Tap trees and collect sap. Boil and reduce sap.

Chocolate

Coffee. Minimum: Coffee should be roasted by vendor.

Preferred: Minimum +

- Package coffee
- Value added, such as flavorings, done by vendor

Cheese. Minimum: Culture the cheese and age if applicable.

Preferred: Minimum +

- Use own animals for milk production

Prepared foods.

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\*How does the IRS define employee vs independent contractor? (From *The Balance Small Business*)  
The IRS classifies a worker as an employee as follows:

In general, anyone who performs services for an organization is an employee if the organization can control what will be done and how it will be done.

The factors designating someone as an employee include:

A specific wage or salary  
An implied or written contract, and  
Control of the person's work by the employer.

A person may work for a business and not be an employee. In this case, the person is considered to be an independent contractor in relation to the other party, and he or she is self-employed. That is, the relationship between the two parties is between two businesses, one of which is providing a service to the other.

The 3 Criteria the IRS Uses to Define "Employee"

The IRS uses three criteria to determine whether a worker is an employee:

Behavioral: Does the company control or have the right to control what the worker does and how the worker does his or her job?

Financial: Are the business aspects of the worker's job controlled by the payer? (these include things like how the worker is paid, whether expenses are reimbursed, who provides tools/supplies, etc.)

Type of Relationship: Are there written contracts or employee type benefits (i.e. pension plan, insurance, vacation pay, etc.)? Will the relationship continue and is the work performed a key aspect of the business?

(If you click on the links in this quote, you can find out more about what the IRS says about each of these three criteria.)

Some State Agencies Define Employees More Strictly

Some states have stricter laws designating how workers are classified for the purposes of determining wage orders (wages, hours, and working conditions). They use variations of an ABC Test that restricts calling someone an independent contractor unless they meet specific criteria. California's ABC test includes these criteria, allowing someone to be classified as an independent contractor ONLY if they meet ALL THREE of these requirements:

The worker is free from the control and direction of the employer. AND

The worker performs work that is outside the usual course of the hiring entity's business, AND

The worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed.

Other states have similar laws. If you have questions about how your state classifies independent contractors, check with the employment bureau or department.