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Independent Contractor vs Employee

In Wyoming, both Unemployment Insurance and Workers' Compensation use the same test to determine the status of a worker and their relationship to an employer. It is commonly referred to as the Three-Part Test. There is extensive interpretive legal precedent for both programs for each component of the test. Some important concepts are:

- **All** three parts must be met in order to be established as an independent contractor.
 - The establishment of an independent contractor is “**by contract and by fact.**” This means that the mere presence of a contract does not make the relationship that of an independent contractor. They must also meet the requirements of the Three-Part test.
 - It is common for Employers to compare/confuse the comparison with the test used by the Internal Revenue Service. While there are similarities, there are also many differences. The IRS test is included for comparison.
 - The specific Three-Part Test is:
 - “Independent contractor” means an individual who performs services for another individual or entity and:
 - Is free from control or direction over the details of the performance of services by contract and by fact;
 - Represents his services to the public as a self-employed individual or an independent contractor; and
 - May substitute another person to perform his services.
- **The statutory references for the 3-part tests for the two divisions are:**
- Workers' Compensation W.S. § 27-14-102 (a)(xxiii)
 - Unemployment Insurance W.S. § 27-3-104(b)