



State of Louisiana  
**LOUISIANA BOARD OF COSMETOLOGY**

11622 Sunbelt Court, Baton Rouge, LA 70809

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## **Important information for Boothrenters and Salon Owners!**

Which are you? For federal tax purposes, this is an important distinction. Worker classification affects how you pay your federal income tax, social security and Medicare taxes, and how you file your tax return. Classification affects your eligibility for employer and social security and Medicare benefits and your tax responsibilities. If you aren't sure of your work status, you should find out now.

The courts have considered many facts in deciding whether a worker is an Independent Contractor or an Employee. These relevant facts fall into three main categories: **Behavioral Control; Financial Control; and Relationship of the Parties.** In each case, it is very important to consider all the facts – no single fact provides the answer. Carefully review the following definitions.

### **BEHAVIORAL CONTROL:**

These facts show whether there is a right to direct or control how the worker does the work. A worker is an employee when the business has the right to direct and control the worker. The business does not have to actually direct or control the way the work is done – as long as the employer has the right to direct and control the work. For example:

**INSTRUCTIONS** – If you receive extensive instructions on how work is to be done, this suggests that you are an **employee**.

Instructions can cover a wide range of topics, for example:

1. How, when or where to do the work.
2. What tools or equipment to use.
3. What assistants to hire to help with the work.
4. Where to purchase supplies & services.

If you receive less extensive instructions about what should be done, but not how it should be done, you may be an **independent contractor**. For instance, instructions about time and place may be less important than directions on how the work is performed.

**TRAINING** – if the business provides you with training about required procedures and methods, this indicates that the business wants the work done in a certain way, and this suggests that you may be an **employee**.

### **FINANCIAL CONTROL:**

These facts show whether there is a right to direct or control the business part of the work. For example:



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**SIGNIFICANT INVESTMENT** – if you have a significant investment in your work, you may be an **independent contractor**. While there is no precise dollar test, the investment must have substance. However, a significant investment is not necessary to be an independent contractor.

**EXPENSES** –if you are not reimbursed for some or all business expenses, then you may be an **independent contractor**, especially if your unreimbursed business expenses are high.

**OPPORTUNITY FOR PROFIT OR LOSS -**

if you can realize a profit or incur a loss, this suggests that you are in business for yourself and that you may be an **independent contractor**.

**RELATIONSHIP OF THE PARTIES:**

These are facts that illustrate how the business and the worker perceive their relationship: For example:

**EMPLOYEE BENEFITS** – if you receive benefits, such as insurance, pension, or paid leave, this is an indication that you may be an **employee**. If you do not receive benefits, however, you could be either an employee or an independent contractor.

**WRITTEN CONTRACTS** – a written contract may show what both you and the business intend. This may be very significant if it is difficult, if not impossible, to determine status based on other facts.

**WHEN YOU ARE AN EMPLOYEE** - Your employer must withhold income tax and your portion of social security and Medicare taxes. Also, your employer is responsible for paying social security, Medicare, and unemployment (FUTA) taxes on your wages. Your employer must give you a form W-2, Wage and Tax Statement, showing the amount of taxes withheld from your pay.

You may deduct unreimbursed employee business expenses on Schedule A of your tax return, but only if you itemize deductions and they total more than two percent of your adjusted gross income.

**WHEN YOU ARE AN INDEPENDENT CONTRACTOR** – The business may be required to give you Form 1099-Misc., Miscellaneous Income, to report what it has paid to you.

You are responsible for paying your own tax and self-employment tax (Self-Employment Contributions Act – SECA). The business does not withhold taxes from your pay. You may need to make estimated tax payments during the year to cover your tax liabilities.

You may deduct business expenses on Schedule C of your income tax return.



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Federal Form SS-8, Determination of Employee Work Status for Purposes of Federal Employment Taxes and Income Withholding, provides more information on this subject.

Federal Publication 15-A, Employer's Supplemental Tax Guide, provides additional information on independent contractor status. You may download and print IRS publications, forms, and other tax information materials on the Internet at [www.irs.gov](http://www.irs.gov) and you may call the IRS at 1-800-829-3676 to order free tax publications and forms. From a fax machine, dial (703) 368-9000 and you will immediately get a list of IRS tax forms faxed back to you. Follow the voice prompts to get specific forms faxed to you.

If you still find that you have questions and need some additional assistance, you may call the IRS at 1-800-829-1040.

**ATTENTION!!!!!!! IF YOU ARE DETERMINED TO BE AN INDEPENDENT CONTRACTOR AS DEFINED BY THE FEDERAL GOVERNMENT, A BOOTHRENTAL CONTRACT AND BOOTH RENTERS LICENSE IS REQUIRED.**



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## LOUISIANA LAWS CONCERNING BOOTHRENTAL PERMITS

### 37:592. Employment of cosmetologists; independent contractors

A. No person licensed by the board shall permit any person in his employ or under his supervision or control to practice cosmetology or barbering who does not possess the appropriate certificate or certificates of registration issued by the appropriate licensing board.

B. A registered cosmetologist shall be deemed an employee of a salon, unless the following applies:

(1) A written agreement exists between the cosmetologist and the salon specifying the following:

(a) That the cosmetologist is an independent contractor.

(b) That the salon has no right to control the methodology used by the cosmetologist to produce a given result.

(c) The amount of rent to be paid by the cosmetologist to the salon, whether calculated at a fixed percentage of the cosmetologist's gross receipts or a flat fee.

(2) The cosmetologist possesses a booth rental permit issued by the board.

(3) The cosmetologist has paid a booth rental permit fee to the board.

C. The salon shall maintain complete records of all rental payments to the salon and all distributions to the cosmetologist.

D. No cosmetologist who has been issued a booth rental permit pursuant to R.S. 37:593 shall be recognized as an employee of a salon by the Louisiana Department of Revenue or Department of Labor. Acts 2001, No. 907, §2, eff. June 26, 2001, Acts 2004, No. 808, eff. July 12, 2004

### 37:593. Booth rental permits

A. The board shall issue a booth rental permit, to any person who holds a license, certificate of registration, or permit issued by the board, upon application and compliance with the following:

(1) Submission of a copy of the written agreement required by R.S. 37:592(B).

(2) Payment of the booth rental permit fee and the booth rental inspection fee set forth in R.S. 37:599.

(3) Receipt of an inspection report from the board indicating approval of the booth.

B. Booth rental permits are not transferable except as follows:

(2) When the salon changes location, a booth rental permit can be transferred by filing a new booth rental agreement and receipt of an inspection report from the board indicating approval of the booth.

Acts 2001, No. 907, §2, eff. June 26, 2001, Acts 2004, No. 808, eff. July 12, 2004

### 37:599. Fees

A. The following fees shall be assessed by the board:

(2) For each initial certificate of registration and each annual renewal of such certificate:

(f) Beauty shop or salon



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| (iv) The initial inspection fee for salon or booth rental. | \$ 25.00 |
| (g) Booth rental permit                                    | \$ 25.00 |
| 9) Miscellaneous fees:                                     |          |
| (c) Copy of booth rental contract form                     | \$ 5.00  |

(3) If a registrant wishes to restore an expired certificate listed in Paragraph (2) of this Subsection within three years from the date of expiration, he shall be assessed a fee equal to twice the applicable fee for each year the certificate was expired, not to exceed three hundred dollars.

Acts 2001, No. 907, §2, eff. June 26, 2001, Acts 2004, No. 808, eff. July 12, 2004

### LOUISIANA ADMINISTRATIVE CODE RULES CONCERNING BOOTHRENTAL PERMITS

#### Title 46, Part XXXI, § 501. Boothrenters

- A. A copy of the executed agreement between the salon owner and the cosmetologist shall be submitted to the Board at the time of application for a booth rental permit.
- B. The Board will furnish a contractual agreement form for a nominal fee. In the event an agreement is not on the form supplied by the Board, the agreement shall contain the following information:
1. A statement indicating that both parties agree that the cosmetologist is not an employee of the salon;
  2. A statement indicating the salon owner has no right to control the methodology used by the cosmetologist to produce a given result; and
  3. A statement indicating the basis of the cosmetologist's compensation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:592.