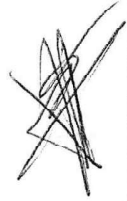


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NY			Whether a person is an independent contractor or an employee, or is otherwise exempt from the definition of employee under the Workers' Compensation Law, are questions for the Workers' Compensation Board to determine. There is case law to support an insurer's right to charge premiums for independent contractors of an employer "if there is reasonable risk that the [Workers'] Compensation Board would hold persons to be employees rather than independent contractors." <i>Commissioners of the State Insurance Funds v. Rivington Farm Dairy, Inc.</i> , 16 A.D.2d 58, 225 N.Y.S.2d 486 (1st Dept. 1962). But see <i>Matter of For-Med Medical Group v. New York State Insurance Fund</i> , 207 A.D.2d 300, 615 N.Y.S.2d 399 (1st Dept. 1984) (holding that there was no reasonable risk that 35 doctors who maintained offices at petitioner's premises would be deemed employees rather than independent contractors by the Workers' Compensation Board).
OH	WE		Case-by-case determination focusing on which party had the right to direct and control the work applying common law test.
OK	WE	Affidavit drives status	<p>Following is the criteria for affidavit to help determine if an applicant is exempt from workers' compensation. To qualify as exempt, at least six criteria must describe their business.</p> <ol style="list-style-type: none"> <li>1. The nature of the contract between you and the contractor shows you are independent from the contractor. For example: Is there a written contract where you agree that you are an independent contractor? Are you a corporation or limited liability company? Do you maintain commercial general liability insurance or other business insurance?</li> <li>2. The contractor exercises very little control over your work. For example: By the agreement, can the contractor exercise control on the details of the work or your independence? Do you exercise control over most of the details of the work? Do you create plans or specifications for the job? Do you set your own work hours?</li> <li>3. You are engaged in a distinct occupation or business for others. For example: Do you work for companies or individuals other than the contractor? Do you work for competitors of the contractor? Does your business have a logo or uniform?</li> <li>4. Your job is the kind of occupation where the work is usually performed by a specialist without supervision, and not under the direction of the contractor. For example: Is your work supervised by the contractor?</li> <li>5. Your occupation requires special skills, license, education or training.</li> <li>6. The contractor does not supply the things needed to perform your job such as the tools and the place of work. For example: Do you supply any of the materials or tools for the work? Do you operate a vehicle owned by the contractor? Was the work performed at your business or the contractor's business location or jobsite? Do you wear a uniform supplied by the contractor?</li> <li>7. The length of the job and how long you have worked for the contractor does not show that you are really an employee. For example: Is this a one-time job, or will you be doing this for the contractor regularly?</li> <li>8. You are paid as a separate contractor, not as an employee. For example: Do you invoice the contractor for your services? Are you paid by the job? Do you file a federal income tax return for your business? Do you expect to receive an IRS Form 1099 from the contractor? Does the contractor pay your expenses?</li> <li>9. Your work is not the regular business of the employer. For example: Is your work customarily done in the contractor's line of business or as part of the contractor's daily work? Have you ever been an employee of the contractor? Do you work with other people hired by the contractor on the work you perform?</li> <li>10. You do not consider yourself an employee of the contractor. For example: Will the contractor withhold taxes or monies from your payment? Have you ever been an employee of the contractor? Have you or your employees ever filed an insurance claim against the contractor?</li> <li>11. You do not have the right to terminate the relationship without liability. For example: If you quit before the job is finished, is there a penalty?</li> </ol>