

Determining a Governmental Employee's Status

The definition of a state or local governmental employee, for Social Security and Medicare purposes, can be found in the following:

1. Under the **Social Security Act**, the term employee includes:
 - Section 218(b)(3) – an officer of a state or a political subdivision
 - Section 210(j)(2) – an individual who, under the usual common-law rules applicable in determining an employer-employee relationship, has the status of an employee.
2. Section 3121 of the **Internal Revenue Code** defines an employee as:
 - 3121(d)(2) – any individual who, under the usual common law rule applicable in determining the employer-employee relationship, has the status of an employee.
 - 3121(d)(4) – any individual who performs services that are included under an agreement entered into pursuant to Section 218 of the Social Security Act.

Elected and Appointed Officials

The Social Security Administration the Internal Revenue Service considers elected and appointed officials to be employees of their governmental employer. Some examples include, however are not limited to, the following:

- Appointed members of state boards, commissions, and authorities.
- Elected and appointed state officials
- Elected and appointed city and county officials
- Elected members of local boards of education
- Elected supervisors of conservation districts
- Appointed members of local boards, commissions, districts, and authorities

Employee Versus Independent Contractor

To determine whether an individual is an employee or an independent contractor under the common law, the relationship between the worker and the agency must be examined. All evidence of control and independence must e considered. In any employee-independent contractor determination, all information that provides insight to the degree of control and to the degree of independence must also be considered.

The courts have considered many facts in deciding whether a worker is an independent contractor or an employee. These facts fall into three main categories.

1. [Behavioral control](#)
2. [Financial control](#)
3. [Relationship of the parties](#)

Additional information regarding governmental workers is located on the [Internal Revenue Service](#) Web site. To submit a request for review by the Internal Revenue Service, please complete [Form SS-8](#).