

# JBK Accountants

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## Employment Status

### ABC Test

The [ABC test](#) defines if a worker is an employee or independent contractor in California.

**Note:** The ABC test must be used for the purpose of the Unemployment Insurance Code beginning January 1, 2020.

A worker is considered an employee and not an independent contractor, unless the hiring entity meets **all three** conditions of the ABC test:

- A. The person is independent of the hiring organization in connection with the performance of the work, both under the contract for the performance of the work and in fact.
- B. The person performs work that is outside the hiring entity's business.
- C. The person is routinely doing work in an independently established trade, occupation, or business that is the same as the work being requested and performed.

**Note:** Workers are considered employees unless proven otherwise. The hiring organization must show that workers meet all conditions of the ABC test in order to classify them as independent contractors, unless there is a statutory exclusion or determination of employment.

[Proposition 22](#) makes app-based drivers for network companies independent contractors and not employees or agents if the network company meets [certain conditions](#).

## What is the ABC test?

Under the ABC test, a worker is considered an employee and not an independent contractor, unless the hiring entity satisfies **all three** of the following conditions:

- The worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact;
- 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 that involved in the work performed.

Below is a summary of the California Supreme Court's explanation of how to apply the ABC test.

### **Part A: Is the worker free from the control and direction of the hiring entity in the performance of the work, both under the contract for the performance of the work and in fact?**

In analyzing Prong A of the ABC test, the California Supreme Court in *Dynamex* explained:

- A worker who is subject, either as a matter of contractual right or in actual practice, to the type and degree of control a business typically exercises over employees would be considered an employee.
- Depending on the nature of the work and overall arrangement between the parties, a business need not control the precise manner or details of the

work in order to be found to have maintained the necessary control that an employer ordinarily possesses over its employees.