

Independence or Convenience? A Stylist's Decision

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This critical incident prompts students to analyze a real-life dilemma faced by a skilled worker. Taylor is a hair stylist who has always worked as an independent contractor, paying booth rent to a salon. The owner of her current salon has just announced plans to implement a commission based business model, and stylists (like Taylor) have three weeks to decide whether they will change to the commission model and become employees of the salon or remain independent contractors. Taylor has been provided information about the quota system and other operating guidelines of the commission based model. She must consider the potential advantages and disadvantages of becoming a commission employee or remaining an independent contractor.

THE CRITICAL INCIDENT

"Do I want to remain my own boss...or do I want to have more energy to spend on what I love most?" Taylor asks herself that question as she walks out of the salon meeting and heads to her car in the parking lot. The owner of the salon where she had worked the past three years had just gathered everyone together to announce a change in the salon's business model. Since the salon first opened eight years ago, it had used a "booth rental" model, where stylists operated as independent contractors and paid rent to the salon for use of their stylist station. Two years ago, Lucy, the founder of the salon, sold the business to the current owner, Pat. Under this new management, the business had steadily declined. To help reverse that trend, Pat was eager to implement a "commission based" model she learned about at a salon management training seminar. Under the commission based model, stylists are considered employees of the salon who are expected to meet designated goals for number of clients, retail sales, and other performance metrics. At the meeting today, Pat announced that all new hires will be commission stylists. Those stylists currently working at the salon - like Taylor - are given the choice to stay with their existing booth rental agreement or move to the commission structure. It was also made clear that should Taylor (or any existing stylist) choose to switch to the commission structure, they would not have the option to revert back to the booth rental structure in the future. Since her annual booth rental agreement is up for renewal at the end of the month, Taylor has less than three weeks to make her decision.

With almost five years of experience as a trained stylist, Taylor has built a solid core of loyal clients. She enjoys the freedom of setting her own work schedule. Some days Taylor may book multiple clients and work more than 16 hours, while other days she may only work a few hours with one or two clients. Taylor also enjoys a strong reputation for providing quality on-site services for bridal parties and other special events. Those special events are typically on weekends, and Taylor likes how she can easily adjust her schedule to balance her clients' needs and her own desire to relax at home and spend time with family and friends.

As she heads home, Taylor reflects on how her experience at the salon had changed. When Pat first purchased the salon, the business was known as the premiere salon in the small Midwestern college town. The salon's 15 hair stations, 5 mani/pedi stations, and esthetician, tanning, and masseuse rooms were consistently full and the salon's open house events were standing room only. But today there are just six hair stylists and only Taylor provides facials for clients. All the other stations and rooms remain unused. In-house training opportunities for stylists ceased when Pat took over, and in recent months Pat also started charging stylists a variety of fees on top of their booth rental payments, including surcharges for cleaning, advertising, costs of client refreshments, paper towels, toilet paper, laundry soap, and other small items. Taylor agrees with her fellow stylists that it seems they are being "nickel and dimed" to death and she is becoming increasingly annoyed with the to-do lists Pat leaves for the stylists in the break room. Those lists dictate how the stylists are expected to help with cleaning, stocking shelves of retail products, and other tasks that were not required when Lucy was the owner. "Last week Pat even told us the specific way we all have to greet clients and answer the phone - so frustrating," fumes Taylor. "I pay her \$150 every month plus at least another \$100 for all the "extras" she tacks on each month...and what do I get in return?"

But for all her frustration with Pat's leadership, Taylor is intrigued with the new business model presented at today's meeting. Pat brought in a consultant, Charlie, to talk about the STAR approach and benefits it had created at Charlie's own salon in a neighboring state. Taylor glances at the handout from the meeting (*see Exhibit A*). "Charlie said one of his stylists was now making \$100,000/year and working only about 30 hours a week. He said she lost 60% of her clients when she first raised her prices, which is incredibly scary...but Charlie said half of those clients returned to her within 6 months. I just don't know how my clients would react to higher prices...but I would sure love to only work 30 hours and week and make \$100K! That's nearly double what I made last year by working more than 50 hours some weeks. Would also be nice to have the salon do all my marketing - I'm no whiz at social media and it takes up a lot of my time to stay in touch with my clients and find new ones. But the best part is I wouldn't have to mess any more with figuring out what prices to charge, keeping track of my income and expenses, and sending in my self-employment taxes if I switch to the commission approach...the salon will take care of all that. It would be so great to no longer have that headache and hassle! I became a stylist so I could spend my time helping clients feel beautiful - I hate the bookkeeping stuff."

Other aspects of the new business model are more troubling, however. Taylor continues to think out loud as she pulls into her driveway at home. "Charlie said if a stylist doesn't make their monthly quotas, that shortfall is just added to the quota for the next month - but who decides on those quotas? And I sure don't like the idea of having to share a station to work a 5 hour shift like they do at Charlie's salon. But if I decide to be a commission employee, the salon will pay for all the products I need, so less money out of my pocket...but it sounds like I give up the chance to use the specific brands I like most...and I'm expected to push my clients to buy products to take home - never liked doing that - seems so pushy. It would also be weird to be paid just twice a month. Now, I walk away each day with money in my pockets from the clients I had that day. And do I really want to have Pat determine my work schedule?" Taylor recalls how at the end of the meeting, Pat told the stylists that Charlie would be back in the salon the next week, in case they had questions. "There's so much to think about, I'm not even sure what questions I should be asking," Taylor mutters.

Taylor grabs the handout, slams the car door shut and walks into her house. She calls out to her fiancé, "Hi honey! I've got news, lots to consider, and a big decision to make!"

THE DILEMMA

What questions should Taylor be asking, of herself and others, in determining whether or not to become a commissioned employee at the salon? What factors might influence her decision to remain an independent contractor? Based on the information provided, should Taylor accept Pat’s offer to become part of the STAR program at the salon?

**EXHIBIT A
HANDOUT PROVIDED TO TAYLOR AND OTHER STYLISTS AT THE MEETING**

We are excited about our new STAR system here at the salon! Effective next month, any new stylist who joins our salon will be part of the commission-based STAR system, and stylists currently paying booth rent can switch to this STAR system with unlimited earning opportunities! See the STAR chart below for details of this exciting STAR system.

STAR SYSTEM BUILDS WEALTH FOR STYLISTS!!					
	★	★★	★★★	★★★★	★★★★★
Stylist Experience	1 year	2-3 years	4-5 years	6-7 years	7+ years
Work Schedule*	3 nights per week; 3 Fri/Sat per month	3 nights 2 Fri/Sat	2 nights 2 Fri/Sat	2 nights; 1 Fri/Sat	1 night; 1 Fri/Sat
Monthly Averages					
Clients	90	100	110	120	150
Service Ticket	\$48	\$60	\$75	\$90	\$105
Retail Commission**	\$90	\$120	\$185	\$230	\$270
Estimated Tips	\$648	\$900	\$1650	\$2700	\$3150

*stylists will work 5 hour shifts for up to 40 hours/week. Day shifts are 9am-2pm; night shifts are 2-7pm. As shown above, a “one star stylist” would be expected to work at least three night shifts per week and would work at least three Fridays or Saturdays per month. Stylists are also paid on a 50/50 commission (e.g., for a \$48 service, the stylist gets to keep \$24 plus any tips received from that client.)

**stylists earn commission of 20% for sales of retail products to clients. Only STAR brand products will be used and sold to clients at our salon.

Note: Any stylist who does not opt to become part of the STAR system must renew their annual booth contract as per the rates and guidelines shown below:

- \$175/month base booth rental, payable weekly (provides for non-exclusive use of one chair and work station, one locker to hold supplies, and access to hair-washing facilities, client waiting area, and break room)
- Booth renters can receive 40% discount on all STAR brand products purchased from the salon and used for on-site services at the salon. All products must be run through the cash register and booth renter agrees to pay for each product at time of purchase.

Booth renters can participate in the STAR rebate program for STAR retail products sold to clients, and receive a rebate on their booth rental fee as shown below:

Weekly Retail Sold	Rent Reduction (rebate taken off next week's rent)
\$0 - \$99	\$0
\$100-\$177	\$22
\$178-\$255	\$39
\$256 and above	20% of total weekly sales

TEACHING NOTES

Synopsis of the Critical Incident

This critical incident is about a hair stylist who works as an independent contractor, paying booth rent to a salon. Her landlord has just announced plans to implement a commission based business model in the salon. All new stylists will be commission employees, and existing stylists have three weeks to decide whether they will change to the commission model and become employees of the salon or remain independent contractors and renew their booth rent contract. The protagonist, Taylor, must consider the potential advantages and disadvantages of becoming a commission employee under this new system versus remaining an independent contractor. This critical incident prompts students to understand the distinction between an employee and an independent contractor, consider various factors involved in Taylor's decision, and identify what additional information Taylor may need to make an informed decision.

Intended Audience

This critical incident is suitable for undergraduate students in small business, human resource management, and employment law courses. The scenario depicted illustrates an actual dilemma faced by a skilled worker who is weighing the relative advantages and disadvantages of being an independent contractor versus an employee.

Learning Objectives

By analyzing this scenario and making recommendations to the protagonist, students can:

- 1) understand the difference between being an employee or an independent contractor, as per U.S. Internal Revenue Service (IRS) guidelines;
- 2) identify various factors that may influence a person's choice to be an independent contractor rather than a salaried/commissioned employee; and
- 3) evaluate the proposed commission model and determine what (if any) additional information is needed to make an informed decision.

Teaching Plan

In guiding students through consideration of this critical incident, we recommend the instructor follow a three-step process:

- I. prepare students for the discussion;
- II. open the discussion with questions that address the learning objectives; and
- III. close the discussion with the critical incident epilogue.

I. Prepare Students for the Discussion

Prior to the discussion of this critical incident in class, students should read the critical incident and become more familiar with the salon industry (NAICS code 812112) and the distinction between employees and independent contractors. This could include having students explore websites for trade associations such as Associated Hair Professionals

(<https://www.associatedhairprofessionals.com/professionals>) and the Professional Beauty Association (<https://probeauty.org/>), as well as the U.S. Internal Revenue Service (IRS) guidelines for distinguishing between employees and independent contractors (<https://www.irs.gov/newsroom/understanding-employee-vs-contractor-designation>). To further motivate students to adequately prepare for the case discussion, we recommend having the students complete a brief graded quiz (and a sample quiz can be provided on request).

II. Open the Discussion with Questions that Address the Learning Objectives

Provided below are questions the instructor can use to prompt discussion aligned with the specific learning objectives. Also provided are possible responses and additional resources that instructors can use to expand student understanding and support the discussion.

Learning Objective #1: Understand the Distinction between an Employee and Independent Contractor, as per U.S. Internal Revenue Service (IRS) Guidelines.

Discussion question #1) According to the IRS, what factors are considered when determining if a person is an independent contractor or an employee?

The degree of control and independence in the employer/worker relationship is key. While dependent on the facts of a given situation, the general rule is that an individual is considered an independent contractor if they have control over what work will be done, and how that work will be done. In contrast, if a company controls the behavior of a worker by directing that worker in what jobs to do and how to complete those jobs, then that worker would likely be considered an employee of the company. As outlined on the IRS website, in addition to determining the degree of control and independence a worker has over his/her **behavior**, other factors such as **financial** aspects (how the worker is paid, whether the worker provides his/her own tools, etc) and the **type of relationship** (if there exists a written contract between the worker and company, if the worker receives benefits such as a pension plan, insurance, paid vacation, etc) are also considered when determining whether a worker is an independent contractor or an employee.

Discussion question #2) Based on the information provided in the critical incident, would Taylor currently be considered an independent contractor or an employee?

As described in the critical incident, Taylor sets her own work schedule, determines the prices she charges clients, selects and pays for the products used with clients, submits her own self-employment tax, and has an existing annual booth rental contract with the salon -- all factors consistent with an independent contractor.

Instructors might also prompt students to consider how the degree of control/independence Taylor has appears to have changed under the leadership of the current owner, Pat, using examples such as Taylor's complaints about being "treated like Pat's minions" and being directed on how to greet clients. To further explore this aspect, instructors could integrate discussion of the recent California Supreme Court ruling aimed at companies like Uber who have been criticized for telling workers they are independent contractors (to minimize the company's tax obligation and responsibility to the worker under employment law) while in reality, treating those workers like employees by mandating specific work hours, controlling work conditions, and dictating how the work is to be completed:

<https://money.cnn.com/2018/05/01/news/economy/california-gig-employer-ruling/index.html>

As described in the article below, research by the Professional Beauty Association indicates the vast majority (90%) of salons have no direct employees but instead rely on independent contractors:

<https://thinkprogress.org/why-your-beauty-salon-likely-doesnt-have-any-employees-dcb01d801bc4/>

Learning Objective #2: Identify Various Factors that May Influence a Person's Choice to Be an Independent Contractor Rather than a Salaried/Commissioned Employee.

Discussion question #3) From the perspective of a skilled worker, what are potential advantages and disadvantages of being an independent contractor, rather than being an employee who is paid a salary or on a commission basis?

This question can prompt discussion of the benefits and drawbacks of being an independent contractor. Students are likely to identify the quite obvious advantage of independence -- freedom to be your own boss, with control over the type of clients, work, schedules, etc. Students are likely to also recognize the accompanying responsibility and risk (uncertainty of revenue streams, lack of paid vacation or benefit plans, etc) of an independent contractor. Instructors might further prompt students to also consider other aspects, such as tax implications as outlined in these articles:

- <https://www.thebalancesmb.com/what-is-an-independent-contractor-398291>
- <https://www.inc.com/monique-claiborne/heres-what-no-one-tells-you-about-being-an-independent-contractor.html>
- <https://smallbusiness.chron.com/self-employment-tax-deductions-hair-stylists-16696.html>
- <https://www.forbes.com/sites/steveparrish/2013/12/16/should-i-be-an-employee-or-an-independent-contractor/#435193b138c2>

Discussion question #4) Based on the information provided in the critical incident, what might be tangible and intangible factors that impact Taylor's preference for being an independent contractor or salaried/commissioned employee?

Tangible factors Taylor would likely consider include financial aspects - will she be better off financially as an independent contractor or as an employee? Taylor refers to the commission employee in Charlie's salon who makes \$100,000 which is nearly double the amount of money Taylor made last year. To help students identify intangible factors, instructors might prompt students by asking what they believe Taylor enjoys most (and least) about being a stylist based on her comments in the critical incident. For example, Taylor muses about "having more energy to spend on what I love most" and asserts that she "became a stylist so I could spend my time helping clients feel beautiful - I hate the bookkeeping stuff." Taylor's desire for autonomy and flexibility are also reflected in her comments regarding the desire to make her own schedule, and have time to spend with family and friends.

Learning Objective #3: Evaluate the Proposed Commission Model and Determine what (if Any) Additional Information is Needed to Make an Informed Decision.

Discussion question #5) What assumptions are reflected in the information provided on the handout about the STAR system?

Students should recognize the handout provided at the meeting offers limited information and may be best considered as a promotional piece for the STAR system. Little, if any, support or explanation is provided for the estimated number of clients, average service ticket, and retail commission. The averages for tips also appear to assume that each client will tip at least 15-20%, which may be unrealistic. The claim that stylists have "opportunity to earn up to \$150,000 a year!" lacks any substantive evidence.

Discussion question #6) What additional information does Taylor need to make her decision?

In order to make an informed decision, Taylor needs much more information than what is provided in the handout. For example, information is needed regarding (1) what level of marketing support will be

provided by the salon under the STAR commission system, (2) whether stylists will continue to be asked to pay for "extra" sundry items (students should recall Taylor's frustration with feeling "nickel and dimed"), (3) what the policy will be for scheduling clients, i.e., can Taylor continue to choose her clients or, as an employee, will she be required to serve? (4) how the sales quotas will be determined, (5) what support the salon will provide in helping stylists achieve their quotas, and (6) whether Taylor would be allowed to offer discounts or have any involvement in how prices are determined for clients.

Students should also recall how Taylor has built a strong reputation for providing "on-site" services for special events like weddings and proms. Taylor also needs to get additional information regarding her ability to continue to provide those services if she switches to the commission model, and what control she would have with respect to scheduling and pricing those services. Answers to these questions will influence Taylor's decision.

Discussion question #7) Based on the information available, what should Taylor do?

The answer to this question depends largely on Taylor' willingness to relinquish the control and independence she now enjoys and her aversion to being controlled by Pat. Students should be prompted to support their response.

III. Close the Discussion with the Critical Incident Epilogue.

Epilogue: Taylor opted to remain an independent contractor, but chose to leave Pat's salon. Taylor moved to a different salon in the same town, where she pays \$150 per week in booth rent. Taylor also utilizes the expert assistance of a small business tax accountant and a social media consultant, both who are independent contractors themselves.