

Independent Contractors Policy



1. PURPOSE

The intent of this Policy is to provide guidance for determining the appropriate methods of paying individuals who render services to XYZ Company by correctly classifying them as either employees or independent contractors.

2. DEFINITIONS

For purposes of this Policy:

- **“Employee”** means an individual who provides services to XYZ Company under an arrangement that is deemed, for Canada Revenue Agency (CRA) purposes, to be an employment/employee relationship subject to the employment standards act and for which source deductions are required for income tax, Employment Insurance (EI) premiums and Canada Pension Plan (CPP) contributions and reporting is required on the T4 form;
- **“Independent contractor”** means an individual who works for himself/herself and/or owns his/her own firm and provides services to XYZ Company pursuant to an arrangement that does not constitute employment subject to employment standards or requiring source deductions or reporting on the T4.

3. POLICY

XYZ Company may engage individuals to perform services as either an employee or independent contractor. Individuals engaged as employees will receive the protections and accrue the statutory benefits provided under the province’s employment standards laws, and their earnings will be subject to income tax, EI, CPP and other legally required source deductions as well as reporting on the T4.

4. CLASSIFICATION

Correctly classifying workers as employees or independent contractors is essential to ensuring compliance with and avoiding penalties under employment standards, tax, EI, CPP, workers’ compensation and other laws. Accordingly, where the issue is in doubt,

the XYZ Company Human Resources manager is responsible for classifying workers as either employees or independent contractors by applying the criteria set forth in Section 5 below.

5. CLASSIFICATION CRITERIA

In classifying workers as employees or independent contractors, the HR manager and other XYZ Company personnel will consider not simply the individual's title or how the work arrangement is described in the contract but on the basis of the substance of the individual's relationship with the Company by applying the criteria set out by the CRA:

5A. Control of the Work

In an employee-employer relationship, XYZ Company would normally control, directly or indirectly, the way the work is carried out. **Control** includes the authority to direct work even if XYZ Company does not actually exercise that authority. Indications of control include, but are not limited to right or authority to:

- Hire and fire;
- Determine the salary or wages paid;
- Decide the time, place and manner in which the work is done; and
- Assess the quality of the work.

5B. Ownership of Tools and/or Equipment

The relationship is likely to be deemed employment if XYZ Company supplies the tools and equipment the worker needs to do the job and pays for its repair, insurance, transport, rental and operation. Conversely, where workers supply the tools and equipment and pay the costs associated with its maintenance and use, including the risk of economic loss resulting from its damage or destruction, it suggests that the relationship is one of an independent contractor.

5C. Potential for Profit/Risk of Loss

In an employer-employee relationship, the worker would be guaranteed to receive a full salary or wage for the work, regardless of the economic outcome of the venture or financial health of XYZ Company, and XYZ Company would typically pay all operating expenses and bear the all of the potential benefits of profit and risks of losses. By contrast, independent contractors typically share operating costs and, rather than a guaranteed amount, assume financial risk entitling them to share profits or bear the risk of loss depending on the results of the work.

5D. Integration

An independent contractor relationship is more likely to exist when the worker integrates XYZ Company's activities into his/her own commercial activities, acts on his/her own behalf and has other clients. By contrast, an employment relationship is more likely where the worker acts on behalf of the Company and is connected and dependent on the Company's business.

6. NO SINGLE FACTOR IS DECISIVE

In applying the above criteria, the HR manager and XYZ Company personnel must weigh

all of the factors and consider the situation as a whole without considering any single factor to be decisive. Nor are such factors to be treated as a pure numbers game. Thus, for example, a worker who doesn't own the tools or control the work may still be an independent contractor if he has a pronounced entrepreneurial stake in the work and stands to make a large profit if it is successful.