Is Your Independent Really an Employee?



The relationship between an employer and worker may feel like one of contract worker and payer but that does not mean that Revenue Canada will see it that way.

Consider the “four-point test” that the Canada Revenue Agency uses to determine which type of relationship exists; control, ownership of tools, chance of profit/risk of loss, and integration.

Now consider these questions when deciding if you are hiring independent contractors or if they are really employees.

Control and Autonomy of Work

- Is the contractor required to **follow specific instructions** to execute the day-to-day work and does the **payer oversee** and scrutinize work as it is ongoing?
  If Yes – may be an Employee; if No – may be an Independent Contractor
- Is the **assigned work a part of the regular business** of the payer and is the **relationship ongoing** over a long period of time?
  If Yes – may be an Employee; if No – may be an Independent Contractor
- Can the payer **assign additional** projects not identified as part of the contract?
  If Yes – may be an Employee; if No – may be an Independent Contractor
- Can the contract worker **sub-contract work** or **hire assistants**?
  If Yes –may be an Independent Contractor; if No – may be an Employee
- Can/does the contractor provide **services to other organizations** or **the public** without consulting the payer?
  If Yes –may be an Independent Contractor; if No – may be an Employee
- Is the contract worker **trained by the payer** to perform the assignments according to the preferences of the payer?
  If Yes – may be an Employee; if No – may be an Independent Contractor

Location and Schedule of Work

- Must the work be performed on the **payer’s premises**?
  If Yes – may be an Employee (however, there are instances where an independent contractor would be required to perform on the premises.)
  If No – may be an Independent Contractor
- Is there **a set schedule** of hours and days that must be worked each week and are they **assigned by** the payer?
  If Yes – may be an Employee; if No – may be an Independent Contractor

Financial and Business Relationship

- Is the person **paid the same way as payer pays other employees** (for example a set pay schedule biweekly, submitted through time sheets)?
  If Yes – may be an Employee (although "yes" may indicate the person is an employee, this alone may not be enough and other factors will need to be consider). If No – may be an Independent Contractor
- Does the **payer supply** and/or **cover the cost** for purchase, maintenance and replacement of **equipment, and tools** or the space to deliver needed for the work? If Yes – may be an Employee; if No – may be an Independent Contractor
- Is there a **written contract** between the parties outlining the relationship including rights and responsibilities, time line and completion of work?
  If Yes –may be an Independent Contractor; if No – may be an Employee
- Can either party **terminate the relationship** at will?
  If Yes – may be an Employee; if No – may be an Independent Contractor