

# Should You Hire an Independent Contractor or an Employee?



In 2010 there were 2.7 million 'self-employed' workers in Canada. In 2012 freelance job posting site Elance reported that Canada ranked 4<sup>th</sup> in the world for hiring 'freelancers'

## **Win-Win On Several Levels**

Today a growing number of employers are enjoying the advantages of independent contract workers. Whether the motivation is to save money and/or reduce the resources required to hire, train, locate, supply and retain employees the independent contractor can hold an attractive appeal

## **Financial, Resource and Space Savings Advantage**

The independent contractor does not receive access to employer benefits packages and the employer does not contribute to CPP/QPP, withhold income tax or EI. Additionally the employer does not need to supply any equipment, tools, an office and more (although some do).

Independent contractors may work from home, in the workplace of whomever has hired them (though not on a regular schedule or basis as that may cross the line towards being an employee) and a growing number are working in crowd-shared workspaces.

## **Flexibility and A Just-In-Time Workforce**

Employers who select independent contractors are often in need of hiring a just-in-time workforce solution. Hiring to solve a specific problem or when there is an identifiable need or a lack of skills in the current workforce, not dissimilar to hiring temporary employees or hiring from a staffing agency. In the independent contractor employers can also find workers who can walk in with little training, get to work quickly.

## **Time and Frustration Savings**

Another advantage of the independent contractor is finding someone who is motivated to deliver on time and manage problems independently. The contractor does not expect the payee to deal with work problems as the contractor is tasked with delivering solutions to fulfill the contract. One of the biggest advantages is the reduction in

time required for ongoing supervision and oversight.

All of these reasons can create a win-win scenario for both parties.

## **Clearly Understand The Purpose of Your Independent Contractor**

If your independent contractor is delivering the same products or services as a paid employee, even if they are doing it on their own, off-site and with little supervision, they may not be an independent contractor. If your primary reasons for bringing in an independent contractor is to save money, reduce headcount, save space, resources or supervision you may find that they are not an independent contractor.

## **Peak Workloads, Missing Skills and Solving Problems**

If your reasons for bringing in an independent contractor includes:

- solving a specific problem
- offering short-term, intermittent work during peak workloads
- gaining a unique or specific set of skills that you do not have or offer on an ongoing basis

then you may be on the right side of the fence when it comes to hiring independent contractors.

## **The Future of Business**

Named as one of business top thinkers in the past few years Canadian Don Tapscott has written about the concept of a *wikinomic* business model. Wikinomics refers to a model of business that includes mass collaboration, peering, openness and globalization. The *wikinomics* business model requires a dynamic workforce to both enable and respond to changes in the economy, business and technology. The Independent contractor and independent contractor teams can be key components of this *wikinomic* model offering flexibility, adaptability and often a boost to innovation when needed.

## **Today We See Two Kinds of Independent Contractors:**

1. ***Independents by Choice:*** because they can and want to. These free agents may be in high demand fields\*, have established reputations, work how and when they want and are often paid more than they would be as an employee
2. ***Independents by Necessity:*** because they need and have to. These contractors may or may not have unique skills and are, more often than not, paid about the same wage as they would as an employee

- *Keep an eye out for data on “in demand” freelance workers later this month*

Temporary employees can often be miss-labeled as independent contractors but they are not always the same thing. Additionally, an independent contractor may start out as a contractor but may in fact become an employee as the relationship evolves. Interestingly, courts in Ontario have also recently begun to identify the contractor who is a ‘dependent’ contractor, and this will have implications on the business relationship.

It is important to delineate between temporary hires, employees and independents (also called freelancers, free agents, contingent workers) as there are financial implications for miss-identifying the business relationship.

## **Key components in defining an independent contractor include:**

1. Who controls the way in which the work is accomplished
2. Who controls the tools of the trade
3. Who is taking financial risk/makes a profit
4. How tied/integrated the work is.

Both Independents by Choice and Independents by Necessity may be mistakenly identified as contractors when they are employees, but it seems more common in today's climate that the Independents by Necessity may be mislabeled. Why? Because the question of choice can impact who controls the relationship.

***Consider this tip:*** if your independent contractor has other clients at the same time or throughout the year, if you do not detail how the work is to be accomplished only the final product, if you do not pay them the same wage or way as you pay other employees and/or assign them the same work as other employees they may actually be an independent contractor.

Before you proceed with hiring an Independent contractor take the time to learn about the differences and identify the option that best meets your needs not only your pocketbook.