

Checklist - Employee or Independent Contractor



This checklist is intended to assist you through the process of distinguishing an employee from an independent contractor. Please see the handout “**Fact Sheet – Employee or Independent Contractor**” for the risks of incorrectly classifying employees.

There is no universal test to determine whether a person is performing services as an employee or an independent contractor. Instead, Courts and Administrative Boards will consider several factors including:

1. Level of control over the worker's activities;
2. Whether the worker provides his or her own equipment;
3. Whether the worker hires his or her own helpers;
4. Degree of financial risk taken by the worker;
5. Degree of responsibility for investment and management held by the worker; and,
6. Opportunity for profit for the worker in the performance of his or her tasks.

To use this checklist, please start by placing checkmarks beside each factor that relates to your situation, add all the checkmarks together, and fill in which relationship has more checkmarks into the chart below.

1. Level of control over the worker’s activities:

Employment Relationship	Independent Contractor	
Hours of work are scheduled and absences must be reported	Sets own hours of work and is not required to report absences	
Employer supervises and directs the work	Works independently and does not have anyone overseeing his/her activities	
Can be disciplined for performance-related concerns	No authority to discipline	
Provides training, coaching and feedback	No training, coaching or feedback	
Works exclusively for the employer	Works for other people	
Reports to the workplace on a regular basis	May accept or decline work	
Required to wear a uniform or use certain logos when performing work	Uses his/her own business logos for marketing and advertising	
Must attend staff meetings	Not required to attend staff meetings	
Paid salary/hourly wages to an individual	Payment is made to the individual’s company	
Employer controls the method and amount of payment	Paid by the job or submits invoices for payment	
Receives a record of employment and a T4 for income tax purposes	Charges GST on invoices	

Paid vacation pay	No vacation pay and no restrictions on hours or time off
Employer pays expenses	Pays own expenses

2. Whether the worker provides his or her own equipment:

Employment Relationship	Independent Contractor
Employer provides most of the tools and equipment needed	Provides own tools and equipment and responsible for repairs
Employer provides insurance coverages to perform the services	Maintains his/her own insurance coverages to perform the services
Does not supply own workspace	Supplies own workspace
Does not have a business presence	Has a business presence: website, business cards, etc.
	Advertises and actively markets his/her services

3. Whether the worker hires his or her own helpers:

Employment Relationship	Independent Contractor
Must perform the services	May hire someone else to perform the services
Does not have the ability to hire and send replacements	Employer has no authority over who is hired to perform the services

4. Degree of financial risk taken by the worker:

Employment Relationship	Independent Contractor
Does not incur financial risk and losses	Is an investment required to provide services
Not responsible for operating expenses	Incurs expenses to perform the services
Ongoing working relationship	Hired for a specific job or task
Does not have a capital investment in the business	Has a capital investment in his/her business

5. Degree of responsibility for investment and management held by the worker:

Employment Relationship	Independent Contractor
Does not have liability insurance or maintain licensing	Maintains liability insurance, and all necessary licensing to operate the business

No financial investment	Financial investment into the business
Not responsible for managing the business	Responsible for managing his/her business

6. Worker’s opportunity for profit in the performance of his/her tasks:

Employment Relationship	Independent Contractor
Not normally in a position to realize business profits	Opportunity to gain from profits in the business

Please note this is a non-exhaustive list and there may be additional factors you are considering in making your assessment. If this is the case, please write these factors into the chart below.

Add all the checkmarks together for each factor, and fill in which relationship has the most checkmarks into the chart below.

Factors to consider	Employee or Independent Contractor
1. Level of control over the worker’s activities	
2. Does the worker provides his or her own equipment	
3. Whether the worker provides his or her own equipment	
4. Whether the worker hires his or her own helpers	
5. Degree of financial risk taken by the worker	
6. Worker’s opportunity for profit in the performance of his/her tasks	
Other factors considered, such as: a written contract expressing an intent to be an employee or independent contractor	

Now that the chart is complete, consider where on the spectrum the relationship is located. No one factor is determinative of the relationship, and all factors must be considered together in their entirety and taken together as a whole.

To avoid the risks associated with independent contractors, described in the attached Fact Sheet, if an individual falls somewhere in the middle of the spectrum, it would be prudent implement an employment relationship.