

Appendix Q

Employee or Independent Contractor

The following are some basic questions to assist in determining employment status. If any doubt exists, a Canada Pension Plan (CPP) ruling whether an employee/employer status exists should be requested. The time limit to request a ruling is June 30 of the year following the year to which the question relates. For example, if the employment took place in 2017 the ruling request has to be made before June 30, 2018.

Note: If a person is an employee for CPP purposes, than they are an employee for income tax purposes.

1. *Does the worker receive instructions from the payor?*
A worker who receives instruction as to when, where and how the work is to be done is likely an employee. It is the right to this control of the worker by the payor that is important, not whether or not the control is implemented.
2. *Does the payor provide training?*
Training implies that the work needs to be performed in a particular manner and is indicative of an employee/employer relationship.
3. *Is the worker's personal service required?*
When the payor requires the worker to perform the services, it tends to indicate control, especially when the payor is interested in how the results are achieved.
4. *Is the work being done on a continuous basis?*
Work being done on a continuous basis, even if not at regular intervals, indicates an employee/employer relationship.
5. *Does the payor set the hours of work?*
Setting the days and hours of work indicates control over the worker.
6. *Is full-time work required?*
Working on a full-time basis prevents the worker from pursuing other work and is an indication of control. However, this does not mean that part-time work would indicate a contract arrangement.
7. *Who sets the work pattern?*
Following routines or work patterns established by the payor, indicates an employee/employer relationship.
8. *Are reports required?*
Regular progress reports demonstrate control. This could include attendance at scheduled meetings and written oral reports.

9. *Does the payor have the right to terminate the worker at will?*
The right to discharge at will indicates an employee/employer relationship. Independent contractors can only be discharged for failure to meet contract requirements.
10. *Can the worker terminate their services at will?*
An employee can resign at will. An independent contractor may be contractually obligated to continue.
11. *Who provides the work location?*
Performing work at a location provided by the payor usually indicates greater control by the payor. However, there are many jobs that need to be done away from the payor's location, such as salespersons, which does not mean an independent contractor arrangement is in place.
12. *Does the payor pay for travelling or other expenses?*
Payment of some or all of these expenses by the employer indicates control over the workers activities. However, many employees are required to incur expenses as a regular part of their job, such as car expenses.
13. *Who supplies the tools and materials?*
Many employees provide their own hand tools depending on their profession, for example mechanics, with the payor providing the materials and larger tools and equipment. Independent contractors normally supply their own tools and materials.
14. *What is the pay schedule?*
Regularly scheduled remuneration, rather than a fixed fee at the end of the contract, indicates an employee/employer relationship. Commission salespersons receiving commissions earnings at irregular intervals does not indicate independent status.
15. *Is the worker in a profit/loss position?*
An independent contractor will normally be in a profit/loss position in a business sense. They will have a substantial investment in their business and normally receive a fixed fee regardless of expenses incurred. An employee receives a wage, whether by the hour, the piece, commission, etc., with no investment and no chance for profit or risk of loss.
16. *Does the worker perform services for other customers?*
Independent contractors in business for themselves will have contracts with several customers at once and will normally advertise their service to the public.