



Canada Revenue  
Agency

Agence du revenu  
du Canada

# Employee or Self-Employed?

## Do you need more information?

If you need more help after you read this guide, visit our Web site at [www.cra.gc.ca](http://www.cra.gc.ca) or call 1-800-959-5525.

You can get forms and publications from our Web site at [www.cra.gc.ca/forms](http://www.cra.gc.ca/forms) or by calling 1-800-959-2221.

## Teletypewriter users

If you use a teletypewriter (TTY), you can call our toll-free, bilingual enquiry service at 1-800-665-0354.

## Your opinion counts!

If you have any comments or suggestions to help us improve the information contained in this guide, we want to hear from you. Please send your comments to:

Client Services Directorate  
Canada Revenue Agency  
750 Heron Road  
Ottawa ON K1A 0L5

## Court decisions

- *Sagaz Industries Canada Inc. v. 671122 Ontario Ltd.* 2001 SCC 59 (27820)
- *Wolf v. Canada* 2002 FCA 96 (A-563-00)
- *Standing v. Canada (M.N.R.)*, [1992] F.C.J. No. 890 (A-857-90)
- *Wiebe Door Services Ltd. v. Canada (M.N.R.)* [1986] 3 F.C. 553 (A-531-85)

## Legislative references

- Paragraph 5(1)(a) of the *Employment Insurance Act*
- Paragraph 6(1)(a) of the *Canada Pension Plan*

Visually impaired persons can get our publications in braille, large print, or etext (computer diskette), or on audiocassette by visiting our Web site at [www.cra.gc.ca/alternate](http://www.cra.gc.ca/alternate) or by calling 1-800-267-1267 weekdays from 8:15 a.m. to 5:00 p.m. (Eastern Time).

## Table of contents

	Page		Page
How we determine a worker's employment status .....	4	Financial risk.....	6
What you need to consider to determine a worker's employment status .....	4	Responsibility for investment and management .....	6
Control .....	4	Opportunity for profit.....	6
Tools and equipment .....	5	Requesting a ruling .....	7
Subcontracting work or hiring assistants.....	5	Special situations .....	7

## Before you start

### Is this guide for you?

This guide will help you understand how to determine a worker's employment status.

If the employment arrangement between the worker and the payer is an employer-employee relationship, the individual is an employee. If the employment arrangement between the worker and payer is a business relationship, the individual is self-employed.

It is important to determine whether a worker is an **employee** or a **self-employed individual** because employment status directly affects a person's entitlement to Employment Insurance (EI) benefits. Employment status can also have an impact on how a worker is treated under other legislations such as the *Canada Pension Plan*, the *Employment Insurance Act*, and the *Income Tax Act*.

The facts of the relationship as a whole will determine employment status. Workers and payers can set up their affairs as they see fit; however, they must ensure that the status they have chosen is reflected in the actual terms and conditions of the employment.

#### Note

This guide **does not** replace a formal request for a ruling.

If a worker or a payer is not sure of the worker's employment status, either party can request a ruling to have the status determined. Use Form CPT 1, *Request for Ruling as to the Status of a Worker under the Canada Pension Plan or Employment Insurance Act*.

### Employer responsibilities

Employers are responsible for deducting Canada Pension Plan (CPP) contributions, Employment Insurance (EI) premiums, and income tax from remuneration or other amounts they pay to their employees. Employers must remit these deductions along with their share of CPP contributions and EI premiums. An employer who fails to deduct the required CPP contributions and EI premiums must pay both the employer's share and the employee's share of any contributions and premiums owing, plus a penalty.

For more information about employer responsibilities, visit [www.cra.gc.ca/payroll](http://www.cra.gc.ca/payroll).

## How we determine a worker's employment status

To determine if a worker is an employee or a self-employed individual, we examine the total relationship between the worker and the payer, using a three-step approach.

### Step 1

We ask the worker and the payer questions to help determine the facts about their employment relationship and how they define it.

### Step 2

We address the central question “Is the person performing services as a person in business on his or her own account, or as an employee?” by considering the following factors:

- the level of control the payer has over the worker;
- whether or not the worker provides the tools and equipment;
- whether the worker can subcontract the work or hire assistants;
- the degree of financial risk taken by the worker;
- the degree of responsibility for investment and management held by the worker;
- the worker's opportunity for profit; and
- other relevant factors, such as contracts.

We analyze and weigh **each** of these factors to see if they indicate an employer-employee relationship or a business relationship. We then assess and weigh the factors **collectively** in the context of the relationship as a whole.

The relative weight of each factor depends on the facts and circumstances of each situation. No factor by itself determines an employment relationship—we view each factor as a component of the overall picture to determine the nature of the total relationship between the worker and the payer.

### Step 3

We consider the intent of the parties involved. Workers and payers can set up their affairs as they see fit; however, they must ensure that the status they have chosen is reflected in the actual terms and conditions of the employment.

In some situations, a worker and a payer will choose to place a label on their relationship. For example, in a contract (verbal or written), the payer might state that the worker is considered a self-employed worker. This labelling does not mean that the worker really is self-employed—the facts of the working relationship must confirm the status the parties have chosen.

When a contract is genuinely entered into as a contract of service (employer-employee relationship) or a contract for services (business relationship) **and** it is performed as such, the results of the analysis of Step 2 will be consistent with how the parties chose to label their relationship.

## What you need to consider to determine a worker's employment status

To determine if a worker is an employee or a self-employed individual, examine the relationship between the worker and the payer by considering the factors outlined in Step 2 on this page.

To help you make a determination, we give an explanation for each factor and show some indicators that the worker may be an employee or a self-employed individual.

Please note that the importance of each factor depends on the circumstances of each situation. All factors must be considered in the context of the relationship as a whole. The objective is to determine the nature of the overall relationship between the worker and the payer.

## Control

Control is the ability, authority, or right of a payer to exercise control over a worker concerning the manner in which the work is done and what work will be done.

### Degree of control or autonomy

Consider the degree of control held by the payer or the degree of autonomy held by the worker.

The actual degree of control will vary with the type of work and the skills of the worker.

The determination of the degree of control can be difficult when examining the employment of professionals such as engineers, doctors, and IT consultants—because of their expertise and specialized training, they may require little or no specific direction in their daily activities. When examining the factor of control, it is necessary to focus on both the payer's control over the worker's daily activities, and the payer's influence over the worker.

### Payer's right to exercise control

It is the right of the payer to exercise control that is relevant, **not** whether the payer actually exercises this right.

It is the control of a payer over a worker that is relevant, and **not** the control of a payer over the end result of a product or service that he or she has purchased.

### Indicators that the worker is an employee

- The relationship is one of subordination. The payer will often direct, scrutinize, and effectively control many elements of how the work is performed.
- The payer controls the worker with respect to both the results of the work and the method used to do the work.
- The payer determines and controls the method and amount of pay. Salary negotiations may still take place in an employer-employee relationship.

- The worker requires permission to work for other payers while working for this payer.
- Where the schedule is irregular, priority on the worker's time is an indication of control over the worker.
- The payer determines what jobs the worker will do.
- The worker receives training or direction from the payer on how to do the work. The overall work environment between the worker and the payer is one of subordination.
- The payer chooses to listen to the worker's suggestions but has the final word.

### Indicators that the worker is a self-employed individual

- A self-employed individual usually works independently within a defined framework.
- The worker does not have anyone overseeing them or watching their every move.
- The worker is usually free to work when and for whom he or she chooses and may provide his or her services to different payers at the same time.
- The worker has the ability to accept or refuse work from the payer.
- The working relationship between the payer and the worker does **not** present a degree of continuity, loyalty, security, subordination, or integration, all of which are generally associated with an employer-employee relationship.

## Tools and equipment

Consider if the worker owns and provides tools and equipment to accomplish the work. Contractual control of, and responsibility for, an asset in a rental or lease situation is also considered under this factor.

What is relevant is the significance of the investment in the tools and equipment along with the cost of replacement, repair, and insurance. A worker who has made this significant investment is likely to retain a right over the use of these assets, diminishing the payer's control over how the work is performed. In addition, a significant investment in tools and equipment and the maintenance and replacement costs associated with these assets may place the worker at the risk of a loss.

#### Note

Items considered as tools and equipment can vary widely in terms of value and can include everything from wrenches and hammers, to costumes, appliances, stethoscopes, musical instruments, computers, and vehicles such as trucks and tractors.

Self-employed individuals often supply the tools and equipment required to complete a contract. As a result, the ownership of tools and equipment by a worker is more commonly associated with a business relationship.

However, employees can also be required to provide their own tools. The courts have acknowledged that a worker being required to provide his or her tools of the trade does not, by itself, place that worker in the status of a self-employed individual. For example, many skilled trades people such as auto mechanics are required to supply their own tools, even if they are full-time employees.

### Indicators that the worker is an employee

- The payer supplies most of the tools and equipment required by the worker. In addition, the payer is responsible for repair, maintenance, and insurance costs.
- The worker supplies the tools and equipment and the payer reimburses the worker for their use.
- The payer retains the right of use over the tools and equipment provided to the worker.

### Indicators that the worker is a self-employed individual

- The worker provides the tools and equipment required for the work. In addition, the worker is responsible for the costs of repairs, insurance, and maintenance to the tools and equipment.
- The worker has significant investment in the tools and equipment and the worker retains the right over the use of these assets.
- The worker supplies his or her own workspace, is responsible for the costs to maintain it, and performs substantial work from that site.

## Subcontracting work or hiring assistants

Consider if the worker can subcontract work or hire assistants. This factor can help determine a worker's business presence because subcontracting work or hiring assistants can affect their chance of profit and risk of loss.

### Indicators that the worker is an employee

- The worker cannot hire helpers or assistants.
- The worker does not have the ability to hire and send replacements. The worker must perform the services personally.

### Indicators that the worker is a self-employed individual

- The worker does not have to perform the services personally. He or she can hire another party to either complete the work or help complete the work, and pays the costs for doing so.
- The payer has no say in whom the worker hires.

## Financial risk

Consider the degree of financial risk taken by the worker.

To do this, determine if there are any fixed ongoing costs incurred by the worker or any expenses that are not reimbursed. Usually, employees will not have any financial risk as their expenses will be reimbursed, and they will not have fixed ongoing costs. However, self-employed individuals can have financial risk and incur losses because they usually pay fixed monthly costs whether or not work is currently being performed.

Employees and self-employed individuals may be reimbursed for business or travel expenses. Consider only the expenses that are **not** reimbursed by the payer.

### Indicators that the worker is an employee

- The worker is not usually responsible for any operating expenses.
- Generally, the working relationship between the worker and the payer is continuous.
- The worker is not financially liable if he or she does not fulfil the obligations of the contract.
- The payer determines and controls the method and amount of pay.

### Indicators that the worker is a self-employed individual

- The worker hires helpers to assist in the work. The worker pays the hired helpers.
- The worker performs a substantial amount of work from their own workspace and incurs expenses relating to the operation of that workspace.
- The worker is hired for a specific job rather than an ongoing relationship.
- The worker is financially liable if he or she does not fulfill the obligations of the contract.
- The worker does not receive any protection or benefits from the payer.
- The worker advertises his or her services and actively markets himself or herself.

## Responsibility for investment and management

Consider the degree of responsibility for investment and management held by the worker.

Is the worker required to make any investment in order to provide the services? A significant investment is evidence that a business relationship may exist. You should also consider if the worker is free to make business decisions that affect his or her profit or loss.

### Indicators that the worker is an employee

- The worker has no capital investment in the business.
- The worker does not have a business presence.

### Indicators that the worker is a self-employed individual

- The worker has capital investment.
- The worker manages his or her staff.
- The worker hires and pays individuals to help perform the work.
- The worker has established a business presence.

## Opportunity for profit

Consider whether the worker can realize a profit or incur a loss, as this indicates that a worker controls the business aspects of services rendered and that a business relationship likely exists. To have a chance of a profit and a risk of a loss, a worker must have potential proceeds and expenses, and one could exceed the other.

Employees normally do not have the chance of a profit and risk of a loss even though their remuneration can vary depending on the terms of their employment contracts. For example, employees working on a commission or piece-rate basis, or employees with a productivity bonus clause in their contract can increase their earnings based on their productivity. This increase in income is not normally viewed as a profit, as it is not the excess of proceeds over expenses.

Employees may have expenses directly related to their employment, such as automobile expenses, board and lodging costs. Normally, expenses would not place employees at risk of incurring a loss because it is unlikely that the expenses would be in excess of their remuneration.

Self-employed individuals normally have the chance of profit or risk of loss, because they have the ability to pursue and accept contracts as they see fit. They can negotiate the price (or unilaterally set their prices) for their services and have the right to offer those services to more than one payer. Self-employed individuals will normally incur expenses to carry out the terms and conditions of their contracts, and to manage those expenses to maximize net earnings. Self-employed individuals can increase their proceeds and/or decrease their expenses in an effort to increase profit.

This factor must be considered from the worker's perspective, not the payer's. It is for the most part an assessment of the degree to which the worker can control his or her proceeds and expenses.

Employees generally do not share in profits or suffer losses incurred by the business.

The method of payment may help to determine if the worker has the opportunity to make a profit or incur a loss. In an employer-employee relationship, the worker is normally guaranteed a return for the work done and is usually paid on an hourly, daily, weekly, or similar basis.

However, some self-employed individuals may be paid on an hourly basis. When a worker is paid a flat rate for the work performed, it generally indicates a business relationship, especially if the worker incurs expenses in performing the services.

### Indicators that the worker is an employee

- The worker is not normally in a position to realize a business profit or loss.
- The worker is entitled to benefit plans which are normally only offered to employees. These include registered pension plans, and group accident, health, and dental insurance plans.

### Indicators that the worker is a self-employed individual

- The worker can hire a substitute and the worker pays the substitute.
- The worker is compensated by a flat fee and incurs expenses in performing the services.

## Requesting a ruling

If a worker or a payer is not sure of the worker's employment status, either party can request a ruling to have the status determined. Use Form CPT 1, *Request for a Ruling as to the Status of a Worker under the Canada Pension Plan or Employment Insurance Act*. You can get this from our Web site at [www.cra.gc.ca/forms](http://www.cra.gc.ca/forms) or by calling 1-800-959-2221.

For information about rulings, visit [www.cra.gc.ca/cppei](http://www.cra.gc.ca/cppei) and click on "How CPP/EI Ruling works."

## Special situations

If an individual from one of these categories—barbers and hairdressers; drivers of taxis and other passenger carrying vehicles; fishers; or placement and agency workers—is **not** considered an employee, there are special rules concerning CPP, EI, and income tax that need to be applied.

For information on these workers and the special rules that apply, visit our Web site at [www.cra.gc.ca/payroll](http://www.cra.gc.ca/payroll).