

## Factors to consider when determining a worker's employment status – [RC4110 hyperlink](#):

It is important to determine whether a worker is an **employee** or a **self-employed individual**. If the worker is an employee (employer-employee relationship), the payer is considered an employer. 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. They have to remit these deductions along with their share of CPP contributions and EI premiums, to the Canada Revenue Agency.

**An employer who fails to deduct the required CPP contributions and EI premiums has to pay both the employer's share and the employee's share of any contributions and premiums owing, plus penalties and interest.**

The following tools are available to help you determine a worker's status. The six following factors have to be considered for the decision.

### **1. 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.

### **2. Tools and equipment:**

Self-employed individuals often supply the tools and equipment required to complete a contract. The courts have acknowledged that because a worker is required to provide tools of the trade, this does not in itself deem that worker to be a self-employed individual.

### **3. Subcontracting work or hiring 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.

### **4. Financial risk:**

Self-employed individuals can have financial risk and incur losses because they usually pay fixed monthly costs (example: rent, insurances, etc.) 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.

### **5. Responsibility for investment and management:**

A significant investment or the possibility for the worker to make business decisions that affect his or her profit or loss is evidence that a business relationship may exist.

### **6. Opportunity for profit:**

To have a chance of a profit and a risk of a loss, a worker has to have potential proceeds and expenses, and one could exceed the other.

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.

## Employment Status

*This table summarizes employees and/or Self-Employed individual characteristics. Upon completion, the worker's employment status is determined.*

Name of worker: \_\_\_\_\_

Name of Officer: \_\_\_\_\_

Worker's social insurance number: \_\_\_\_\_

**Has the SIN been obtained?    Yes            No**

**If not, did you document a proof of refusal (this is mandatory)?    Yes            No**

Factors of RC4110	True	False	N/A
<b>Control</b>			
1. The payer controls the result of the work and the method used to do the work.			
2. The payer determines and controls the method and amount of pay in an employer-employee relationship.			
3. The worker requires permission to work for other payers while working for you.			
4. The worker receives training at the expense of the payer.			
5. If the work schedule is irregular, you are the worker's priority.			
6. The worker cannot choose when he or she will provide his or her services.			
7. The worker cannot refuse work from the payer.			
8. The payer performs monitoring in the activities surrounding the work.			
9. The payer decides on the territory to be covered for the work.			
10. The payer decides on the reports to hand in (written or verbal).			
<b>Tools and Equipment</b>			
1. The work is done in the payer's workplace.			
2. The payer supplies the tools and equipment.			
3. The payer is responsible for repair maintenance and insurance costs.			
<b>Subcontracting work or hiring assistants</b>			
1. The worker cannot hire helpers or assistants.			
2. The worker does not have the ability to hire replacements.			
<b>Financial risk</b>			
1. The worker is reimbursed for any operating expenses.			
2. The worker is not financially liable if he or she does not fulfil the obligations of the contract.			
3. The payer determines and controls the method and amount of pay.			
4. The worker is not hired for a specific job (he or she has different tasks and projects).			
5. The worker receives protection or benefits from the payer.			
6. The worker does not advertise and does not actively market his or her services.			
7. The payer covers delivery and shipping costs for the worker.			
8. The payer assumes responsibility for ensuring that guarantees relatins to materials are honoured.			
9. The payer guarantees the quality of work.			
<b>Responsibility for investment and management</b>			
1. The worker has no capital investment in the business.			
2. The worker cannot have his or her own staff.			
<b>Opportunity for profit</b>			
1. The worker is paid a regular salary (does not incurs expenses in performing the services).			
2. The worker does not have the chance of profit or risk of loss.			
<b>Total columns (the higher number determines the worker's status)</b>			

**True = Employee**

**False = Self-Employed**

## SAMPLE ANSWERS

*This table will help you complete the factors to better understand questions and statements*

Nº	Employee	Self-Employed
<b>Control</b>		
1.	The worker is following instructions given by the payer and the method requested to get results.	The worker chooses the method of work; the final result is the only matter.
2.	Salary is according to the conventions of the employer (union- salary grid).	The salary is based on industry / market.
3.	The payer can refuse that the worker works for a competitor, to have the exclusivity.	The worker has various contracts with other companies, including a competitor.
4.	The payer pays for the training in order for the worker to do the job.	The worker pays his own training. He is fully trained.
5.	The worker is automatically available for the payer.	The worker is not fully available when the payer needs him.
6.	Working hours are determined by the payer.	The worker decides when he'll do his job.
7.	The area to cover is chosen by the payer.	The worker decides the area to cover.
8.	The payer demands reports on the work progress.	The worker's final deliverables are sufficient. No needs for timesheets.
<b>Tools and Equipment</b>		
1.	The worker must perform his work in the company's office.	The worker has the liberty to choose his workplace.
2.	The company provides all the requested tools and equipment. The company keeps everything when the work is done.	The worker uses his own tools and equipment. He buys what he needs in order to do the work.
<b>Subcontracting work or hiring assistants.</b>		
1.	The worker works by himself.	The worker shares his payoff with someone to help.
2.	The replacement is chosen and hired by the payer.	The replacement is chosen and hired by the worker.
<b>Financial risk</b>		
1.	The payer is responsible for rent, insurances, permits, etc.	The worker is responsible for rent, insurances, permits, etc.
2.	The payer takes the financial risks.	The worker takes the financial risks.
3.	The payer determines on which basis the worker is paid- payroll services.	Both parties agree on the how and when. Accounts payable pays the bill.
4.	The worker does not have a specific mandate, but several projects.	The worker has a specific mandate, he has one project.
5.	The worker was chosen following a job.	The worker advertises in papers, on the radio, the web...
6.	When the worker sends a letter for work, the payer pays the costs.	When the worker sends a letter for work, he pays for his own stamp.
7.	The payer gets all the necessary material and assures product quality.	The worker gets the material and guarantees product quality.
8.	The payer assures all the set-up, the delivery, etc.	The worker guarantees everything.
<b>Responsibility for investment and management</b>		
1.	The worker can't hire by himself staff members.	The worker can hire an employee to help in his work.
<b>Opportunity for profit</b>		
1.	The payer pays administration and management fees, taxes, etc.	The worker is responsible for administration and management fees, taxes, etc.
2.	The worker has a fixed salary and can't get extra amounts.	There's an extra/surplus as the worker gets more than the cost of production.