

Employee or Contractor?

Know the Difference

Hello · Bonjour
Employee

Hello · Bonjour
Contractor

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Employee or Contractor? Know the Difference

For copyright information, contact:

Alberta Human Services
Workplace and Career Planning
Telephone: 780-422-1794 Fax: 780-422-5319
E-mail: info@alis.gov.ab.ca

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Information in this publication was accurate, to the best of our knowledge, at the time of printing. However, legislation, labour market information, websites and programs are subject to change, and we encourage you to confirm with additional sources of information when making career, education, employment and business decisions.

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They are not actual photos of any individuals mentioned.**

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This publication does not list the pros and cons of contracting or self-employment. Detailed information on self-employment and starting a business is available in *Self-Employment: Is It for Me?* (online at alis.alberta.ca/publications).

Who it's for

The information in this publication can help anyone who is working as a contractor or thinking about starting a contracting career, working with contractors, planning to hire a contractor's services, or exploring whether someone is a contractor or an employee.

Ways to Get a Job Done

About this Publication

This publication presents general information about how contractors and employees differ and why the differences matter. It explains how being an employee or a contractor can determine what laws and regulations apply and what types of taxes, premiums and contributions must be paid. It also explains how government organizations decide who is and who is not an employee or a contractor for the purposes of:

- taxation
- employment standards
- occupational health and safety
- workers' compensation

What's included

Many government organizations administer work-related programs or enforce legislation that deals with work-related issues. Different parties in a work relationship have different roles, responsibilities, entitlements and liabilities, and different organizations define work relationships in different ways.

Employees, employers or contractors need to know what rights and responsibilities they have in work relationships.

This publication explains how different organizations define the parties of a work relationship and tells you where to find more information.

The publication includes a number of tables that make it easy to see at a glance how an employee is different from a contractor. It includes contact information for the various government organizations that deal with work-related issues.

What's not included

The intent of this publication is not to give any legal counsel or answers. The interpretation of employment status is a complicated legal question and independent legal advice may be necessary.



Work arrangements can vary. Work relationships between those hiring and those hired can also vary.

Often those paying for work or services hire a person or a firm to do the work under contract. Someone who works under contract can be either a contract employee or an independent contractor:

- **Employees** (or contract employees) work under an employer–employee relationship or “contract **of** service.”
- **Contractors** carry out their work under an independent business–contractor relationship or “contract **for** service.”

Different groups, including different government organizations, may use their own terms to describe contract-for-service workers or independent contractors.

Independent contractors are known as freelancers, consultants or simply contractors. For simplicity, this publication uses the term “contractor” to refer to all independent contractors.

Freelancing is often associated with a certain type of work—like writing, for example. Consulting may bring to mind independent professionals such as engineers or management advisers. A contractor could do janitorial work, sewing, carpentry or other trades work or provide services such as environmental monitoring, hauling or courier deliveries. A contractor could provide health-related services such as private-care nursing or education-related services such as teaching or tutoring—even though health care and education are usually connected with hospitals and schools.

No matter what type of work or service they provide, what all contractors have in common is being independent.

Incorporated employee or incorporated contractor?

Some people may see advantages to structuring their work affairs as a corporation. An individual who incorporates and provides work for more than one company or hires and supervises other workers may qualify for a reduced corporate tax rate.

An individual who incorporates and provides their services to only one company or to a company, that pays a set hourly rate, may be classified as a Personal Service Business (PSB). PSBs are restricted to the types of expenses they can write off for tax purposes. Incorporated individuals who offer their services on contract should check with Canada Revenue Agency (CRA) if they are considered an incorporated employee (PSB) or an incorporated independent contractor according to the *Income Tax Act*.

CRA uses multiple factors to determine whether an incorporated individual is considered a PSB and a contract alone is typically not sufficient. Additional information may be required for CRA to make that determination.

For CRA information, see Table 6 on page 26.



Employee placement, contracting or temp agencies may sign up workers and then assign them for periods under contract to the user of the workers' services. The agency may even pay the workers directly. However, employees working under contract from an agency are considered employees of the agency.

Businesses and organizations, including government agencies, sometimes hire people directly for a fixed period. Such workers may work under a contract and may even be called contract employees. However, they are treated like employees. For example, income tax is deducted from their pay. They are not contractors.



Written contracts

A contract can help determine the intent of the relationship between the party who is doing the work and the party who is paying for it. However, a contract alone is not conclusive in determining an individual's employment status.

Employer–employee relationships (contracts **of** service) are governed by different laws and regulations than business–contractor relationships (contracts **for** service). A written contract can help to establish whether the relationship between the party who is doing the work and the party who is paying for it is a business relationship rather than an employer–employee relationship.

Contracts typically state that work or services are being provided on a contract basis. Contracts also define the scope, time frame and cost of the work or service and outline the responsibilities of each party in the work relationship.

The responsibilities outlined in a contract may include but are not limited to the following:

- payment and invoicing
- whether any expenses are covered
- whether the contractor can hire assistants
- who directs any subcontractors
- who can terminate or suspend the contract, and under what conditions
- who holds control of copyright, patents or other rights
- who is responsible for remitting taxes, and who, if anyone, pays any other required payments or premiums such as Workers' Compensation
- who is responsible for professional and general liability or other insurance (for example, for vehicles, equipment and premises)
- who is responsible for shortcomings or defects in any goods or services provided
- who is responsible and pays for any required permits or licences
- qualifications requirements (to confirm that the contractor has the qualifications needed for the job)
- requirements for the return or disposal of information or documents
- warranty for goods or services provided

Even though a contract may include the above-listed clauses, this does not always mean that a contract-for-service relationship has been established. For details on other factors that need to be considered, see the section *How to Figure Out the Difference*, beginning on page 6.

Those paying for or providing contract services may want to get legal advice when preparing or before signing their contracts.

Why the Difference Matters

Whether someone is a contractor or an employee determines:

- who is responsible for certain actions
- who is entitled to what
- who is liable if things go wrong

Depending on the nature of the working arrangement and relationship, responsibilities, entitlements and liability may rest with:

- the employee
- the contractor
- the employer
- the payer or user—that is, the person or firm that hires and pays a contractor

Most working people probably don't think much about whether they are employees, contract employees or contractors. However, definitions become important when a working relationship raises uncertainties about someone's legal entitlements and responsibilities. There may be differences in interpretation of what defines a contractor among various statutes.

The need to review or define a working relationship might arise for the following reasons:

- questions about payroll or tax deductions, Employment Insurance (EI) premiums and Canada Pension Plan (CPP) contributions
- requests for holiday, vacation or termination pay
- workplace health and safety questions raised by injury reports or investigations
- questions raised by the Canada Revenue Agency over a tax return, audit or notice of assessment
- questions about eligibility for low corporate tax rates
- declined or denied EI applications
- declined or denied requests for time off or payments for maternity, parental or compassionate care
- declined or denied Workers' Compensation claims or coverage



Who needs to know the difference

Certain government organizations may have reasons to review whether someone is an employee or a contractor. The following organizations administer programs and enforce legislation on income taxes, pensions and benefits:

- Canada Revenue Agency
- Employment and Social Development Canada, which administers programs such as EI and the CPP
- Alberta Labour's Employment Standards and the Occupational Health and Safety Codes
- Alberta Workers' Compensation Board
- Alberta Apprenticeship and Industry Training
- Alberta Labour Relations Board

How to figure out the difference

Contracting has less to do with the type of work than with the control of how, when and where the work is done.

Whether someone is considered an employee or a contractor depends on the nature of the work relationship between the party who provides goods or services and the party who pays. If the work relationship is a **contract of service**, an employer–employee relationship exists. If the work relationship is a **contract for service**, the party who pays has a business relationship with an independent contractor.

The key word here is relationship. The nature of the work relationship determines the eligibilities and responsibilities of each party.

Government organizations and the courts have developed some general guidelines to decide whether a work relationship is a **contract of service** or a **contract for service**. The review process that is used takes into account the terms, wording and intent documented in the contract agreement. It compares whether the actual working relationship is in line with what the people signing the agreement intended. In order to make this determination, the review examines the following factors:

- direction and control: who decides when and how the work is done?
- ownership of facilities, supplies, tools and equipment: who owns what and who is responsible for it?
- chance of profit or risk of loss: who stands to make a profit or suffer a loss as a result of the working relationship?
- integration: do the people performing a service consider themselves to be in business for themselves? Is the job or service being provided the worker’s sole or primary source of income?



What about peer-to-peer business?

Peer-to-peer business such as Airbnb, Fiverr, and Uber, which match buyers of goods or services with sellers online are growing. This is a new emerging business model, and rules and regulations are evolving. To learn more whether such ventures are considered independent contracting and the latest information on these types of “ways to get a job done”, refer to the Contacts listings at the end of this publication.

While general guidelines apply, it's important to remember that different government organizations use their own specific considerations to decide if a worker is an employee or a contractor.

Table 1: Working conditions that determine if someone is an employee or a contractor.

	Employee	Contractor
Direction and Control		
Method of payment	<ul style="list-style-type: none"> • Receives an hourly, weekly or monthly wage or salary, or is paid on commission. • Receives a pay-related document such as a paycheque and statement of earnings. 	<ul style="list-style-type: none"> • Submits invoices. • Receives pay as a lump sum or in installments, often on contracts received as the result of a successful project bid.
Hours of work	<ul style="list-style-type: none"> • Usually works specified hours that are set by the employer. 	<ul style="list-style-type: none"> • Generally is free to choose time of work.
Benefit plans	<ul style="list-style-type: none"> • Receives benefits such as vacation pay, Employment Insurance and Canada Pension Plan contributions. Benefits are paid for—in full or in part—by the employer. 	<ul style="list-style-type: none"> • May pay insurance premiums for privately held plans. • In most cases, does not participate in the Employment Insurance program. <i>(See NOTE 1 in Table 2 for exceptions that apply to certain workers.)</i>
Full-time, personal and exclusive service	<ul style="list-style-type: none"> • Usually devotes all working time to one employer. <i>(Someone with several part-time jobs with different employers is still considered an employee.)</i> • Personally performs the work or service and cannot hire someone else to do it. 	<ul style="list-style-type: none"> • Typically has many potential income streams and serves a number of payers during a given period. <i>(On a large project, for a while, most of the contractor's time may be spent on that project.)</i> • May employ or subcontract others to do the work.
Training	<ul style="list-style-type: none"> • Receives in-house, on-the-job or outside training that is provided, paid for or reimbursed by the employer. 	<ul style="list-style-type: none"> • Has the required training before starting the job. • Pays his or her own training costs.
Schedules and routines	<ul style="list-style-type: none"> • Works under the direction and control of an employer. 	<ul style="list-style-type: none"> • May have to meet deadlines, but can set the schedule, sequence or manner in which the work is done.

	Employee	Contractor
Right to discharge or terminate employment	<ul style="list-style-type: none"> • Can be discharged from work, provided Alberta's Employment Standards Code and other requirements are met. <i>(The right to fire is a form of control.)</i> • Can terminate his or her employment by giving the applicable length of notice in accordance with Alberta's Employment Standards Code requirements. 	<ul style="list-style-type: none"> • Normally, as long as he or she has complied with the requirements of the contract, cannot be discharged by the payer without compensation. • Normally, as long as the payer has complied with the requirements of the contract, cannot terminate the contract without liability. • If the contract allows for termination, the payer or the contractor can do so under the specified conditions.
Supervision and compliance with instructions	<ul style="list-style-type: none"> • Works under the supervision of the employer. • Generally must follow the employer's instructions on how, when and where the work is performed. • Generally must follow the employer's instructions regarding the quality or volume of work. 	<ul style="list-style-type: none"> • Generally works without supervision to meet the requirements of the contract. • Does not receive or follow ongoing instructions on when, where and how to work. • Decides what methods will be used to achieve the final outcome.
Specific results	<ul style="list-style-type: none"> • May perform a variety of tasks and duties. <i>(The relationship with the employer continues after these tasks and duties have been completed.)</i> 	<ul style="list-style-type: none"> • Supplies a product or service as required by the contract. <i>(Once these requirements have been met, the contractual relationship ends.)</i>
Ownership of Facilities, Supplies, Tools and Equipment		
Facilities and premises	<ul style="list-style-type: none"> • Usually uses a workspace, furniture, phone, computer and related equipment provided, maintained and paid for by the employer. 	<ul style="list-style-type: none"> • Usually supplies (leases, rents or owns) the space, furniture, phones, computers and other equipment needed to do the work. • When possible or necessary, may work at the payer's premises. <i>(Working on site does not necessarily mean that the payer controls the contractor. However, supplying a desk, phone or related equipment may be a sign of payer control, particularly for contractors who do not own or have access to similar equipment on their own premises.)</i>

	Employee	Contractor
Tools and equipment	<ul style="list-style-type: none"> Usually uses tools, equipment and materials provided and paid for by the employer. (<i>Tradespeople are expected to provide their own hand tools while the employer provides equipment and materials.</i>) 	<ul style="list-style-type: none"> Usually buys, rents or leases the tools, equipment, materials and supplies—including letterhead and business cards—required for the job. Usually arranges and pays for tool and equipment maintenance and upgrades.
Chance of Profit or Risk of Loss		
Profit	<ul style="list-style-type: none"> Does not necessarily earn more if work is completed more quickly than expected or if other savings occur. May earn more through bonuses or incentive pay plans. May earn more as length of service or experience increases. 	<ul style="list-style-type: none"> Stands to make more money if project work is completed more quickly than expected or if other savings occur.
Risk of loss	<ul style="list-style-type: none"> Receives pay for labour or services provided. Receives pay at an established rate that is independent of the employer's sales, profits or losses. Is not responsible for covering bad debts: debts are the employer's responsibility. 	<ul style="list-style-type: none"> Stands to make less money if project work takes longer to complete, if a bid is inaccurate or if costs increase because of damage or for other reasons. Risk having periods with less work (possibly after an unsuccessful contract bid) and therefore less income. May have to deal with bad debts.
Integration		
Independence and self-employment	<ul style="list-style-type: none"> Is not self-employed. Is part of the employer's business and depends on one income source. (<i>Part-time employees with several employers are still employees.</i>) The longer and more permanent the working relationship is, the more likely that someone is considered to be an employee. 	<ul style="list-style-type: none"> Acts on his or her own behalf. Is in business for his or her own benefit and is not part of the payer's business. Relies on several income sources or payers over time. Does business with the general public. May hold a business licence. Hires his own helpers and manages them.



Other considerations

In addition to the factors listed in Table 1, there are other considerations that may help determine whether someone is a contractor or an employee:

- **Legal status**

While many contractors are incorporated, incorporation is not by itself proof of contractor status. Many contractors carry out their work through unincorporated sole proprietorships or partnerships that would meet the contractor definition.

- **Public image**

Whether or not they are incorporated, contractors typically have a public image that includes business name or brand recognition and established goodwill. But having a public image does not in itself prove that someone is a contractor. Rather, in some situations, image and public perception could suggest that someone

is an employee rather than a contractor. For example, if a worker wears a company uniform like that worn by regular employees, this could raise questions about the worker's claim of being a contractor.

- **Management and investment**

The fact that someone has managed and made a significant investment in a business may help confirm that the individual is a contractor.

- **Written contracts**

Even though a written contract may state that someone is a contractor, this is not necessarily the case. However, having a written, dated, signed-by-both-parties contract that outlines terms and conditions related to the work or services to be provided may strengthen the claim that someone is a contractor.

Government Organizations: How They are Involved



The next section discusses how a contractor, an employer, an employee or a worker are defined by:

- Canada Revenue Agency
- Employment Standards, Alberta Labour
- Occupational Health and Safety, Alberta Labour
- Workers' Compensation Board
- other agencies—namely, the Alberta Apprenticeship and Industry Training and the Alberta Labour Relations Board

Not all the listed requirements apply in every case and every situation.

Each of the above organizations decides whether someone is a contractor or employee based on the legislation they administer. If you're unsure about someone's status, get advice directly from the appropriate organization.

Canada Revenue Agency

Contractors, employers and employees deal with the Canada Revenue Agency (CRA) in relation to the following matters:

- personal or corporate income tax, including T4 forms that record remuneration and deductions
- Employment Insurance
- Canada Pension Plan
- Goods and Services Tax

In dealing with these matters, the CRA often needs to establish if an individual is an employee or a contractor.

As shown in Table 2, employers make the necessary deductions and process the necessary paperwork on behalf of their employees. Contractors are responsible for their own deductions, payments and paperwork.

Table 2: Canada Revenue Agency requirements for employers and contractors.

CRA Role	Employer Role	Contractor Role
<p>Collects personal income tax deductions.</p>	<p>Deducts personal federal and provincial income tax from the employment earnings of employees and submits the deducted tax to the CRA.</p>	<p>Submits personal federal and provincial tax deductions to the CRA.</p> <ul style="list-style-type: none"> • Unincorporated contractors deduct personal federal and provincial income tax from their employment earnings • Incorporated contractors deduct personal federal and provincial income tax from the employment earnings of their employees
<p>Collects corporate income tax deductions.</p>	<p>If incorporated:</p> <ul style="list-style-type: none"> • submits a federal corporate income tax return to the CRA • submits an annual provincial income tax return to the Tax and Revenue Administration branch of Alberta Finance 	<p>Unincorporated contractors:</p> <ul style="list-style-type: none"> • declare their business earnings as part of their personal income. They do not pay federal or provincial corporate taxes <p>Incorporated contractors:</p> <ul style="list-style-type: none"> • submit a federal corporate income tax return to the CRA • submit an annual provincial income tax return to the Tax and Revenue Administration branch of Alberta Finance
<p>Collects Employment Insurance (EI) premiums.</p>	<p>Deducts and submits both employer and employee premium portions to the CRA.</p>	<p>Contractors are not eligible for Employment Insurance.</p> <p>NOTE 1: Although the following workers meet the requirements as contractors or self-employment they are considered insurable for Employment Insurance:</p> <ul style="list-style-type: none"> • barbers, hairdressers and manicurists • individuals who provide services in a barbershop or hairdressing business • taxi drivers • drivers of passenger-carrying vehicles <p>For these workers, the business owner or proprietor must pay both the employer and the employee portions of the EI premium.</p>



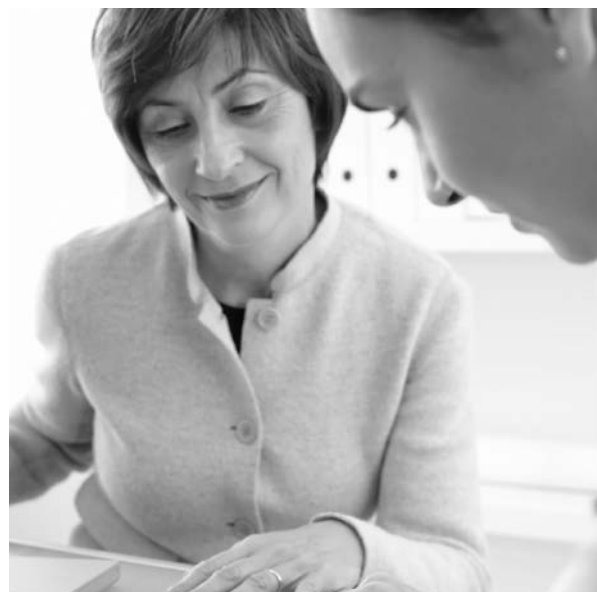
CRA Role	Employer Role	Contractor Role
Collects Canada Pension Plan (CPP) contributions.	Deducts and submits both the employee's and the employer's share of CPP contributions to the CRA.	Submits both the employee's and the employer's share of CPP contributions to the CRA. NOTE 2: The employer portion is a business expense and is not deducted from wages or salary.
Collects Goods and Services Tax (GST) and related documents.	GST does not apply to employee salaries or benefits.	Whether or not they are incorporated, contractors with gross annual revenues of \$30,000 or more must register to collect, charge and remit GST to the CRA.
Collects T4 (Statement of Remuneration Paid) and T4 Summary (Summary of Remuneration Paid) forms.	Issues each employee a T4 listing the CPP, EI and tax contributions made to the CRA on the employee's behalf. Sends the CRA a copy of each employee's T4 and T4 Summary forms.	Incorporated contractors: <ul style="list-style-type: none"> • issues himself or herself a T4 listing CPP contributions and tax deductions submitted to the CRA • sends the CRA a copy of the T4 and T4 Summary (Summary of Remuneration Paid) forms

Just because businesses arrange or choose to pay EI premiums for their workers, does not necessarily make the workers eligible for EI benefits nor the business eligible to participate in EI.

Table 3 illustrates why it is important to correctly identify someone as a contractor or an employee.

CRA Areas Impacted	When Contractors Find Out They Are Employees
Federal or Provincial Income Tax	Payer may not have deducted taxes or issued a T4 Form. If so, employee will have to pay back taxes owing.
Canada Pension Plan	Employer should have paid CRA the employer portion of CPP and deducted and submitted the employee portion to CRA.
Employment Insurance	<p>Employer should have paid CRA the employer portion of EI, and deducted and submitted the employee portion.</p> <p>Employer must pay both in this situation and cannot go after the employee for premiums.</p> <p>Previously not eligible to accumulate insurable earnings for EI, maternity, parental or compassionate care benefits now would be eligible.</p>
Goods and Services Tax (GST)	If registered, they are no longer required to collect GST.

Where taxes or payments are evaded or not paid, the CRA requires payment of the full amount owing, plus interest, as well as any penalties that CRA may impose. Where there has been gross negligence, CRA can assess penalties based on a percentage of the unpaid tax or improperly claimed benefit. In even more severe cases, courts can impose higher penalties and jail terms.





Frequently Asked Questions

Q Must a contractor contribute to the Canada Pension Plan?

A Yes, a contractor must pay both the employer and employee portions of the Canada Pension Plan contribution.

Q Does an incorporated contractor receive a T4?

A Yes, an incorporated contractor prepares and gives himself or herself a T4 form that states earnings, tax deductions and Canada Pension Plan contributions.

The names and details in the following scenarios are fictional but the cases show the types of issues that employers, employees and contractors might deal with.

Ranjit and Ranj-IT Inc.

Ranjit, a trained computer technician, was surprised when Canada Revenue Agency contacted him after he had filed a corporate income tax return on behalf of his company Ranj-IT Inc. For a number of years, Ranjit had worked as an IT (information technology) tech for a medium-sized trucking firm. However, he decided working as a contractor would give him more flexibility and offer other advantages, including not having to pay EI premiums on his earnings. His former employer agreed to hire Ranjit on contract through his company. While Ranjit took on some small assignments for a few other clients, close to 90 per cent of his time was spent on the contract work for the trucking company. The trucking firm also agreed it would be more convenient for Ranjit



to keep his old office, as well as his old direct phone line and Internet connection at the trucking firm's main office. The trucking firm benefited by not having to pay contributions, such as to EI and CPP, or having to keep track of taxes, deductions and other contributions. Like Ranjit, the trucking company received a notice from CRA that raised the question whether with their continuing close links, Ranjit and his former employer really had a contractor relationship. It was a trigger for Ranjit and the trucking company to clarify their working relationship.

Alia and We Design Inc.

Alia is a graphic designer who has worked at We Design Inc. for five years. At first, she worked full time in the company's office. But with a toddler son, Alia found it more convenient to work from home.

For the past two years, Alia has done her graphic design work from her home office. We Design is the only company she works for. The company forwards her assignments, and when these are done, Alia submits them by email from her home computer. She works 37 hours a week, but We Design lets her decide when she puts in this time. The company deposits her monthly pay into her bank account after making income tax, CPP and EI deductions and contributions.

When Alia filed her personal income tax return, she claimed the costs of her home office as a business expense. When the CRA inquired about this deduction, Alia claimed she was a contractor who set her own hours of work. However, when she reviewed the CRA's criteria for deciding whether someone is a contractor, Alia agreed she was an employee, not a contractor.



For more information

Canada Revenue Agency

Phone (toll-free):

1-800-959-5525 (for businesses and self-employed individuals)

1-800-959-8281 (for individuals)

1-800-267-6999 (automated tax tips for businesses and individuals)

Website:

cra-arc.gc.ca

To search for a specific topic or use the search feature.

Employment Standards

Employment Standards deals with questions, requests for information and complaints related to Alberta's Employment Standards Code. Sometimes interpreting these pieces of legislation can raise questions about the distinction between contractors and employers. For example, is the worker entitled to overtime pay? Does the employer have to provide notice or pay to let the worker go?

Most employees and employers in Alberta are covered by the Code. However, the Code also applies to contractors if they are employers and will protect employees that they hire.

Under the Code, an employer is "a person who employs an employee"; the definition includes former employers. An employee is defined as "an individual employed to do work who receives or is entitled to wages"; the definition includes former employees.

If the parties cannot reach an agreement on whether a person is an employee or contractor, an Employment Standards officer may make the decision for them.

Employers and employees in federally regulated industries such as broadcasting, banking and air transport are protected by the Canada Labour Code.

Table 4 shows why it is important to correctly identify contractors or employees according to Employment Standards.

Employment Standards Entitlements	When Contractors Find Out They Are Employees
<p>Payments</p> <ul style="list-style-type: none"> • General holiday pay • Overtime pay • Minimum wage • Termination pay • Vacation pay 	<p>Employee now has certain entitlements—including overtime, general holiday, vacation and termination pay—that were not available when the employee was considered a contractor.</p> <p>Employer might be required by an order under Employment Standards to make back payments to the employee.</p>
<p>Time off:</p> <ul style="list-style-type: none"> • General holidays • Maternity and parental leave • Vacation 	<p>Employee could give employer notice to take a job-protected leave of absence if the employee qualified, including maternity, parental, compassionate care and reservist leave.</p>

Frequently Asked Questions

- Q** Does the Employment Standards Code entitle a contractor to be paid vacation or termination pay?
- A** No, the Code entitles employees to vacation or termination pay, but not a contractor. Contractors should review the terms of their contracts to determine if they're entitled to paid vacation or to be compensated for being discharged.
- Q** Does the Code limit how many hours a contractor can work each week?
- A** No, the Code does not limit a contractor's work hours.
- Q** Is there a legal requirement to pay contractors more for working on a general holiday?
- A** The Code entitles employees to receive general holiday pay, but does not require contractors to be paid more for working on a general holiday. However, contractors should review their terms of contract to determine whether they are entitled to be paid more for working general holidays.



The names and details in this scenario are fictional but illustrate issues that could affect contractors or those using their services.

Tariq and TM Trenching Ltd.

Tariq runs his own backhoe service, TM Trenching Ltd. He works for several different customers, owns his own backhoe equipment and has his own workshop, which also serves as his office.

Tariq recently signed a contract with a local municipality. The contract called for Tariq to dig drainage ditches near the town's baseball diamonds and to finish the work within three months for a fixed price. After Tariq started the job, his contract was cancelled.

Because Tariq is a contractor, he has the right to obtain legal counsel and seek compensation from the municipality. However, since he is not an employee, the Employment Standards entitlements are not available to him.

For more information

Employment Standards Contact Centre

Phone:

780-427-3731 (in Edmonton)

Toll-free in Alberta:

1-877-427-3731

Mobile Phone:

#310 on Telus and Bell or *310 on Rogers

TTY:

780-427-9999 (in Edmonton)

1-800-232-7215 (toll-free for other Alberta locations)

Website:

work.alberta.ca/es

Occupational Health and Safety

Occupational Health and Safety deals with questions that arise from Alberta's *Occupational Health and Safety Act* and Occupational Health and Safety legislation. These pieces of legislation require that employers ensure healthy and safe work sites and that workers cooperate with their employers' efforts.

The Occupational Health and Safety Code does not define or use the word 'employee'.

Table 5 describes how employer, worker and occupation are defined in the Occupational Health and Safety Code.

Employer	Worker	Occupation
<ul style="list-style-type: none"> • A person who is self-employed in an occupation • A person who employs one or more workers • A person designated by an employer as the employer’s representative • A director or officer of a corporation who oversees the occupational health and safety of the workers employed by the corporation 	<p>A person engaged in an occupation.</p>	<p>Every occupation, employment, business, calling or pursuit over which Alberta legislation has jurisdiction.</p>

Most Alberta workers are covered by Alberta’s Occupational Health and Safety Code but it does not cover federally regulated industries. Workers exempt from the Code are domestic workers such as nannies and housekeepers. For current information on coverage related to farm, agricultural and ranch workers, contact the Occupational Health and Safety Contact Centre (phone number and website address is on the following page).

Besides employer, worker and occupation, another important definition is work site, which Alberta’s *OHS Act* defines as “a location where a worker is likely to be engaged in any occupation and includes any vehicle or mobile equipment used by a worker in an occupation.”

Under the Occupational Health and Safety Code, one person may be a worker and an employer at the same time.

Regardless if they are paid or unpaid workers, the employer is responsible for safeguarding the health and safety of persons who enter the work site.

Frequently Asked Questions

- Q** Do contractors have to comply with the requirements of Alberta’s Occupational Health and Safety Code?
- A** Yes, contractors must comply with Alberta’s Occupational Health and Safety Code requirements.
- Q** Under Alberta’s Occupational Health and Safety Code, can contractors be considered workers and employers at the same time?
- A** Yes, contractors may be considered workers while at the same time being employers who hire themselves or others to do the work.



For more information

Occupational Health and Safety Contact Centre

Phone:

780-415-8690 (in Edmonton)

Toll-free in Alberta:

1-866-415-8690

Mobile Phone:

#310 on Telus and Bell or *310 on Rogers

TTY:

780-427-9999 (in Edmonton)

1-800-232-7215 (toll-free for other
Alberta locations)

Website:

work.alberta.ca/whs

Workers' Compensation Board

The Alberta Workers' Compensation Board (WCB) provides no-fault liability and disability insurance for work-related injuries and illnesses.

Contractors could find themselves dealing with WCB coverage as employers or workers or both.

Employers in most industries in Alberta must by law maintain a WCB account. However, individuals and employers in certain industries are exempt from compulsory coverage. A complete list of exempt industries is available on the WCB website at **wcb.ab.ca**. Employers operating in exempt industries can choose to purchase optional coverage for their workers.

It is important to know the difference between an employer and a worker for WCB purposes as employers are responsible for paying the full cost of workers' compensation coverage.

WCB Definitions

Employer	Worker	Neither Employer nor Worker
An individual, firm, association, body or corporation that has, or is considered by WCB to have, one or more workers in its service.	A person who enters into or works under a contract of service or apprenticeship, written or oral, expressed or implied, whether by way of manual labour or otherwise. NOTE 3: As in the case of Occupational Health and Safety, WCB generally speaks of workers rather than employees.	Directors of a company, unless they purchase personal coverage.

Proper standing is also important since WCB can make medical and disability payments if a contractor is injured or becomes ill while working for someone else.

In addition, under Alberta's *Workers' Compensation Act*, workers give up their right to sue for workplace injuries or illnesses. WCB insurance coverage can protect a contractor as an employer or worker from lawsuits when workers get sick from work or have a work-related injury.

Organizations registered with Alberta's Corporate Registry as societies, associations or corporations have an automatic right to a Workers' Compensation account. Unincorporated sole proprietorships or partnerships can also apply for an employer's account. In that case, WCB will consider whether:

- workers are hired
- the business is independent and established, by considering whether it has its own equipment, licences and business records
- the business involves substantial investment

Business proprietors who do not employ any other workers and who do not have a WCB account would be covered by the WCB account of the principal who is paying them for the work or service.

Employers and contractors can request an immediate clearance certificate online to find out if someone is properly registered with WCB.

The following key words also are used in connection with Workers' Compensation.

Contractor—A contractor is a person who contracts to do work for another. A contractor contracts directly with the principal.

Directors—The directors of a corporation are persons typically appointed by the shareholders to manage the business and affairs of the corporation. Their names are normally recorded both in the corporation's minute book and with Alberta's Corporate Registry.

Personal Coverage—A director or business owner is not required to have workers' compensation coverage, but is not covered unless he or she chooses to purchase optional personal coverage.

Principal—A principal is a business entity or person who hires a contractor or subcontractor to perform work or services.

Proprietor—A proprietor is an individual who owns and operates a business where the general business activity usually involves performing work for more than one person at a time and where the individual does not employ workers.



Frequently Asked Questions

Q Do workers pay part of the premium for Workers' Compensation Board coverage?

A No, the employer pays the entire WCB premium.

Q Is it possible to check if someone, including a contractor, is registered with the Workers' Compensation Board?

A Yes, it is possible to check by using the Workers' Compensation Board Clearance Certificate system. The system can be accessed by phone or online through the WCB website.

The names and details in this scenario are fictional but illustrate how Workers' Compensation issues affect contractors or those using their services.

Colleen and Oilwrites Ltd.

Colleen offers writing and editing services through her incorporated company, Oilwrites Ltd. Her specialty is editing safety manuals for oil and gas companies, for whom she works under contract for services.

Colleen is a majority shareholder and director of Oilwrites Ltd. Her husband, Richard, is a director and minority shareholder, but does not perform any work the company. As directors, both Richard and Colleen have the option of whether or not to purchase personal coverage for themselves. Colleen sometimes visits oil and gas production sites as part of her work so she has decided to purchase personal coverage for herself.

Since Colleen is operating under an incorporated entity principals are not required to cover her or the incorporated entity. However, to protect themselves against any potential liability, principals may still wish to request a clearance certificate from WCB to verify what coverage is in place.

For more information

Workers' Compensation Board

Phone:

780-498-3999 (in Edmonton)

403-517-6000 (in Calgary)

Toll-free in Alberta:

1-866-922-9221

Toll-free outside Alberta:

1-800-661-9608

TTY:

780-498-7895

Website:

wcb.ab.ca

Choose from menu options under "Workers" or "Employers"



Alberta Apprenticeship and Industry Training

Certification is compulsory for many trades, and certification often requires an apprenticeship. Apprentices must be the employees of the individuals who are supervising them. They cannot be contractors.

For more information

Phone:

Check the website or call the Career Information Hotline 1-800-661-3753 toll-free or 780-422-4266 in Edmonton for the Alberta Apprenticeship and Industry Training Board office nearest you. *(There are 12 offices across the province.)*

TTY:

780-427-9999 (in Edmonton)
1-800-232-7215 (toll-free for other Alberta locations)

Website:

tradesecrets.alberta.ca



Alberta Labour Relations Board

The Alberta Labour Relations Board administers the Labour Relations Code, which includes rules on forming and joining unions. The board makes determinations on whether an individual is an employee or a contractor. Employees are entitled to join unions and to take part in certification votes; contractors are not.

For more information

Phone:

780-427-8547 (in Edmonton)

Toll-free in Alberta:

1-800-463-2572

Website:

alrb.gov.ab.ca

Contacts at a Glance

Table 6 contains the key organizations that need to distinguish between employers, employees and contractors. For specific questions and answers, contact these agencies directly.

Table 6

Agency	Contact	Information Available
Canada Revenue Agency	Phone (toll-free): 1-800-959-5525 (for businesses and self-employed individuals) 1-800-959-8281 (for individuals) 1-800-267-6999 (automated tax tips for businesses and individuals) <i>For more phone listings, go to the CRA website. Click "Contact us" and then "Telephone numbers for enquiries."</i> Website: cra-arc.gc.ca <i>Click the "A to Z index" to search for a specific topic or use the "Search the site" feature</i>	<ul style="list-style-type: none"> • personal income tax • corporate income tax • Employment Insurance • self-employed workers or contractors eligible for Employment insurance • Employee or Self-Employed? booklet • Canada Pension Plan • Goods and Services Tax • T4 forms
Employment Standards Contact Centre	Phone: 780-427-3731 (in Edmonton) Toll-free in Alberta: 1-877-427-3731 TTY: 780-427-9999 (in Edmonton) 1-800-232-7215 (toll-free for other Alberta locations) Website: work.alberta.ca/es	<ul style="list-style-type: none"> • exempted industries and occupations • payment of wages • deductions from earnings • general holidays and general holiday pay • overtime and overtime pay • termination and termination pay • vacations and vacation pay • hours of work and rest • maternity and parental leave, compassionate care and reservist leave
Occupational Health and Safety Contact Centre	Phone: 780-415-8690 (in Edmonton) Toll-free in Alberta: 1-866-415-8690 TTY: 780-427-9999 (in Edmonton) 1-800-232-7215 (toll-free for other Alberta locations) Website: work.alberta.ca/whs	<ul style="list-style-type: none"> • exempted industries and occupations • refusing unsafe work • assessing and controlling workplace hazards • informing workers of workplace dangers • setting up and using safe work practices • monitoring exposure to controlled products • reporting serious workplace injuries and fatalities • emergency response and preparedness

Agency	Contact	Information Available
Workers' Compensation Board	Phone: 780-498-3999 (in Edmonton) 403-517-6000 (in Calgary) Toll-free in Alberta: 1-866-922-9221 Toll-free outside Alberta: 1-800-661-9608 TTY: 780-498-7895 Website: wcb.ab.ca Choose from menu options under "Workers" or "Employers"	<ul style="list-style-type: none"> • industry descriptions and exemptions • employer accounts and premiums • clearance certificates • treatment and recovery options • claim reporting and return-to-work planning
Apprenticeship and Industry Training	Phone: Check the website for the office nearest you. <i>(There are 12 offices across the province.)</i> TTY: 780-427-9999 (in Edmonton) 1-800-232-7215 (toll-free for other Alberta locations) Website: tradesecrets.gov.ab.ca	<ul style="list-style-type: none"> • certification and supervision requirements for apprentice employees
Alberta Labour Relations Board	Phone: 780-427-8547 (in Edmonton) Toll-free in Alberta: 1-800-463-2572 Website: alrb.gov.ab.ca	<ul style="list-style-type: none"> • labour relations issues for unionized workplaces • forming, joining, changing or removing unions • rights during a strike or lockout • unfair labour practices by unionized employers • union membership dues • collective bargaining • fair representation by unions

Contact Government of Alberta from your mobile phone

Certain mobile service providers have a shortcut for contacting the Government of Alberta from your mobile phone, with no long-distance or airtime charges applied. Call *310 (Rogers) or #310 (Bell or Telus), followed by the 10-digit number for the office you want.

Helpful Contacts

Government of Alberta

The Government of Alberta provides programs and services to support workplaces that are safe, healthy and fair.

Alberta Learning Information Service (ALIS)

The Alberta Learning Information Service (ALIS) is Alberta's online source for career, education and workplace information. Easy-to-read articles on resources for employees and self-employed can be viewed from **alis.alberta.ca**.

Publications on workplace topics are also available:

- *Easy Reading: Employment Law Protects Workers*
- *Self-Employment: Is it for Me?*
- *Your Rights and Responsibilities at Work*

You can order these, and other career, learning and workplace publications by

- visiting the ALIS website at **alis.alberta.ca/publications** to view, download or order
- calling the Alberta Career Information Hotline at 1-800-661-3753 toll-free or 780-422-4266 in Edmonton (available Monday through Friday, 8:15 a.m. to 4:30 p.m.)
- visiting an Alberta Works Centre. Call the Career Information Hotline to find the centre nearest you.

Business Link

Business Link helps Alberta entrepreneurs start their own business with one-on-one guidance, market research, access to experts, training and networking opportunities and specialized services to Aboriginal entrepreneurs.

Phone:

1-800-272-9675

Email:

askus@businesslink.ca

Website:

businesslink.ca

Canadian Legal Information Institute

The Canadian Legal Information Institute provides the public with free access to legal decisions within the Canadian jurisdiction. Access is available online at canlii.org. When searching the database for cases and decisions use key words such as "independent contractor".

Website:

canlii.org




alis.alberta.ca

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Government



The difference between being an employee or a contractor can have big implications when it comes to taxes, benefits, entitlements, liabilities and responsibilities.

This publication presents concise information about how contractors and employees differ, and why the differences matter. Inside you'll find work scenarios, frequently-asked-questions, and easy-to-read tables and charts. **Employee or Contractor?**

Know the difference!