

Canada Revenue Agency

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Canada Pension Plan and Employment Insurance Explained

Workers engaged in construction - Employees or self-employed workers?

Introduction

This document provides information on what the Canada Revenue Agency (CRA) looks at when determining whether a person working in the construction industry is an employee or a self-employed worker.

Employer responsibilities

All employers are required by law to deduct Canada Pension Plan (CPP) contributions and employment insurance (EI) premiums from most amounts they pay to their employees. Employers must remit these amounts to CRA along with their share of CPP contributions and EI premiums. More information on employer responsibilities and obligations can be found through our [Payroll](#) menu page.

How to determine if a worker in the construction industry is an employee or a self-employed worker

To determine if a person is an employee or a self-employed worker, the CRA looks at the factual working relationship between the worker and the payer. This document provides information on facts related to workers in the construction industry, and offers indicators that can help you determine whether a worker in this field is an employee or a self-employed worker.

For general information about determining whether a worker is an employee or is a self-employed worker, see Guide [RC4110, Employee or Self-employed?](#)

Who is a self-employed worker?

Generally, a self-employed worker is someone who agrees to produce a given result but who is not subject to the direction or control of the person to whom he or she provides a service. The self-employed worker is free to act as he or she pleases.

The following two sections list some indicators that can be used to help determine whether a worker is a self-employed worker. Keep in mind that this list is not exhaustive and not all of the following indicators may be present in every situation. Please remember that all facts pertaining to the working relationship need to be considered.

Indicators of a self-employed worker

- A self-employed worker is usually free to work when, and for whom, he or she chooses.
- A self-employed worker may be given blueprints or other specifications to complete a specific contract; however, this does not indicate control over the way the work is to be done.
- A self-employed worker does not necessarily have to perform the services personally and may hire another party to complete the work or help complete the work.
- A self-employed worker is usually paid on a "price per job basis." The price is normally the result of negotiation between both parties.
- A self-employed worker is normally hired for a specific job (or on a job-by-job basis) rather than in an ongoing relationship.
- A self-employed worker is normally able to provide his or her services to different payers at the same time.
- A self-employed worker may develop a harmonious, professional relationship with a prime contractor over a long period of time. This relationship would not affect the employment status of the self-employed worker, as long as the status of transactions between the two

remained as a business-to-business relationship.

- A self-employed worker normally has to redo substandard or improperly completed work at his or her own expense.
- A self-employed worker is usually responsible for providing the equipment or facilities used in performing his or her services. The fact that a worker provides small hand tools is not normally a strong indicator of a worker's employment status.
- A self-employed worker is usually responsible for repairs and maintenance costs for the tools and equipment he or she provides and that are required to perform the work.
- A self-employed worker may end up using his or her own pick-up truck to deliver scaffolding, air compressors, generators, power saws, cement mixers, or other pieces of his or her equipment and materials to the job site. This type of activity indicates that the worker has invested in assets used to deliver his or her services.
- A self-employed worker would normally be liable if he or she does not fulfill the obligations of the contract.
- A self-employed worker can realize a profit or suffer a loss in a business sense. The worker is subject to a real risk of financial loss due to investments in tools and equipment and a real liability for expenses such as materials, salary, repairs, and maintenance costs on equipment, as well as other business expenses.

Displaying a business presence as a self-employed worker

The existence of a "business presence" normally indicates a worker is self-employed. Listed below are some examples of a business presence that a self-employed worker may exhibit.

- The worker has developed accounts with suppliers and clients.
- The worker advertises his or her services for hire in the newspaper, the yellow pages, or specialized trade journals.
- The worker maintains an office and staff.
- The worker has his or her own liability insurance.
- The worker has a business license.
- The worker is registered as a business with different government departments and agencies for things such as goods and services tax or business name registrations.
- The worker maintains a separate bank account for the business, and the worker negotiates business loans or a line of credit.
- The worker has a separate business telephone line.
- The fact that a worker is a member of a trade union does not exclude the worker from being a self-employed worker.

Who is an employee?

Generally, an employee is someone who is hired to perform specific duties under the direction and control of the party that hired him or her. Under the terms and conditions of employment, a worker is not normally in a position to make a profit or incur a loss. An employee is not perceived as operating his or her own business, but rather as being an integral part of the payer's business.

The following are some indicators that can be used to help determine whether a worker is an employee. Keep in mind that this list is not exhaustive and not all of the following indicators may be present in every situation. Please remember that all facts pertaining to the working relationship need to be considered.

Indicators of an employer-employee relationship

- An employer has the right to control how, when, and where the worker does the work. The employer does not have to use this authority-the fact that the authority exists is enough to show control
- An employer normally establishes or sets the hours of work for the employee.
- An employer normally determines the rate of pay.
- An employer usually pays employees by the hour, day, week, or month as opposed to a negotiated "price per job basis."
- The more continuous and exclusive the working relationship, the more it indicates an employer-employee relationship exists.
- Benefits, such as paid vacation, sick days, health insurance, medical and or dental plan,

- pension plan, etc., are sometimes made available to an employee by an employer.
- An employee does not normally have the ability to hire and send his or her own replacement; he or she normally must render the services personally.
 - While employees sometimes supply their own hand tools, the employer normally supplies the larger hand tools and equipment required by the worker to complete his or her duties.
 - The fact that a worker is required to supply his or her own hand tools does not indicate the worker is self-employed.
 - Employees often receive training or direction from the employer on how to complete assigned tasks.
 - Generally, an employer can decide to fire an employee, and an employee may quit the job without obligation.
 - An employee is not normally in a position to realize a business profit or loss.
 - An employee is not recognized as having a business presence.

Can a worker be classified as both an employee and a self-employed worker?

Each case must be reviewed on its own merits. It is possible for a worker to be considered an employee under one contract or agreement while at the same time being considered a self-employed worker under another contract or agreement. However, regardless of which classification the worker falls under, he or she cannot be considered both an employee and a self-employed worker under the same contract or agreement.

Corporations

In general, for purposes of the *Canada Pension Plan* and the *Employment Insurance Act*, where a worker operates through his or her personal services corporation and that corporation enters into a contractual arrangement to provide services to a third party, the third party will not normally be seen as being the employer of the worker. This does not mean that the worker is self-employed. The worker, in most cases, would be an employee of his or her own corporation.

Requesting a ruling

If a worker or payer is not sure of the worker's employment status, either party can request a ruling by the CRA to have the status determined. More information on the ruling process is available in [How to obtain a ruling for Canada Pension Plan and Employment Insurance purposes](#).

For more information

To get more information, call **1-800-959-5525**.

Legislative references:

- Paragraph 5(1)(a) [Employment Insurance Act](#)
- Paragraph 6(1)(a) [Canada Pension Plan](#)

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