

EMPLOYEE VS CONTRACTOR

Last updated: Feb 2017

Are you an employee or a contractor? Have you engaged an employee or a contractor? Use this checklist to discover your obligations.



EMPLOYEE	CONTRACTOR
An employee works in your business and is a part of your business	A contractor is running their own business and are providing services to your business
<i>Control over work:</i> your business has the right to direct the way in which the worker performs their work	<i>Control over work:</i> the worker has freedom in the way the work is done subject to the specific terms in any contract or agreement.
<i>Ability to sub-contract/delegate:</i> the worker cannot sub-contract/delegate the work - they cannot pay someone else to do the work.	<i>Ability to sub-contract/delegate:</i> the worker is free to sub-contract/delegate the work - they can pay someone else to do the work.
<i>Basis of payment:</i> the worker is paid: <ol style="list-style-type: none"> 1. for the time worked 2. a price per item or activity 3. a commission 	<i>Basis of payment:</i> the worker is paid for a result achieved based on the quote they provided.
<i>Equipment, tools and other assets:</i> <ol style="list-style-type: none"> 1. your business provides all or most of the equipment, tools and other assets required to complete the work, or 2. the worker provides all or most of the equipment, tools and other assets required to complete the work, but your business provides them with an allowance or reimburses them for the cost of the equipment, tools and other assets. 	<i>Equipment, tools and other assets:</i> the worker provides all or most of the equipment, tools and other assets required to complete the work. The worker does not receive an allowance or reimbursement for the cost of this equipment, tools and other assets.
<i>Commercial risks:</i> the worker takes no commercial risks. Your business is legally responsible for the work performed by the worker and liable for the cost of rectifying any defect in the work.	<i>Commercial risks:</i> the worker takes commercial risks, with the worker being legally responsible for their work and liable for the cost of rectifying any defect in their work.
<i>Independence:</i> the worker is not operating independently from your business. They work within and are considered part of your business.	<i>Independence:</i> the worker is operating their own business independently from your business. The worker performs services as specified in their contract or agreement and is free to accept or refuse additional work.
Further Information: https://www.ato.gov.au/business/employee-or-contractor/	

This information is a guide only. Please seek taxation advice for deductions relevant to your personal situation.

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<p><i>Pay as you go (PAYG):</i></p> <ul style="list-style-type: none">- they must complete a TFN declaration (NAT 3092)- you have to keep PAYG withholding records- you must provide a PAYG payment summary at the end of the financial year	<p><i>Pay as you go (PAYG):</i></p> <ul style="list-style-type: none">- optional voluntary agreement if sought by independent contractor (NAT 3063)- keep PAYG withholding records
<p><i>Superannuation:</i></p> <ul style="list-style-type: none">- determine whether the employee is eligible for superannuation guarantee- pay contributions in time to nominated fund- report super to employees as required- keep superannuation records	<p><i>Superannuation:</i></p> <ul style="list-style-type: none">- determine whether the contractor is eligible for superannuation guarantee- pay contributions in time to nominated fund- report super to contractor as required- keep superannuation records
<p><i>Fringe Benefits Tax (FBT):</i></p> <ul style="list-style-type: none">- determine if fringe benefits will be provided- if salary sacrifice arrangement is in place, make sure arrangement is agreed to by both parties and keep documentation- keep necessary records- report to ATO as required	<p><i>Fringe Benefits Tax (FBT):</i></p> <ul style="list-style-type: none">- determine if fringe benefits will be provided- if salary sacrifice arrangement is in place, make sure arrangement is agreed to by both parties and keep documentation- keep necessary records- report to ATO as required
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