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# TREASURER'S UPDATE

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## **CONTRACT WORKERS & EMPLOYMENT STATUS**

Often I am asked to explain the difference between setting up a worker as a contract worker or as an employee. I thought it would be appropriate to compile the issue in a newsletter article again. There are possible legal ramifications, if an employee is set up as a contract worker when he/she should have been treated as an employee.

### **What is the difference?**

#### **THE CONTRACT WORKER**

A contract worker, as a self employed individual, should only be hired, if the organization needs advice or specialized irregular short term work to be done. This person should be performing the same services for other organizations and have her/his own business. Make sure that the person provides you with the GST number on the invoice, if they are registered for GST, otherwise you cannot take an ITC on the expense.

The contract worker should be able to determine her/his own work schedule or work from her/his own office. The individual acts on her/his own behalf and represent a separate entity from the organization. The individual generates a business profit or loss on the performance of the work for the client.

If you are employing a contract worker, make sure you have a legal contract, which will stand up to possible disputes. This contract is usually for a fixed time.

The contract worker is deemed to be self employed and is responsible for her/his source deductions to Revenue Canada.



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## **THE EMPLOYEE**

An employee has an employer/employee relationship with your organization. The wage payment is a payment for the services performed for you, at your premises, at the times you need them to perform these services. These individuals will also have a contract with you, which is called a contract of services. The employer will reserve the right to decide where, when and how the work will be done. This contract is usually for an indeterminate time, but can on occasions be for a fixed time and then be renewed.

The employee uses equipment belonging to the employer and the risk of profit or loss remains with the employer. Usually the employee generates the wages from one employer only and presents her/himself as a member of the organization.

Review your “so called” contract positions to make sure they fall within these guidelines, you may find that they cannot be considered as an employer/employee relationship. As an employer you are required to take payroll deductions and remit these deductions, including the employer’s portion, to CRA (Canada Revenue Agency) on a monthly basis. Omitting to do this, can be costly, as CRA will charge you a penalty and make you remit outstanding payments, which are all of the source deductions that should have been taken off the employees payroll cheques and to also include the employer’s portion.

If you determine, that your “contract” worker should be an employee, contact CRA immediately and disclose your problem. It is better to be up-front, than waiting for a payroll audit.

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