

# Employee or Self-Employed?

*What will CRA Say?*

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## Overview

This information circular will outline criteria CRA uses to determine the employment status of an individual, and is to be used as a guide when determining the status of an individual for hiring or employment purposes.

There are distinct advantages to being self-employed, however, there are also significant penalties for an employer or employee that attempts to claim to be self-employed when they are in fact an employee of the business.

The information contained herein is intended for reference purposes only, when a question arises, you should always consult the appropriate CRA Guides or other resources as may be necessary.

This guide is divided into sections for each relevant topic, ***The Table of Contents references are active links***, in other words, if you click on a line in the Table of Contents, it will take you to that page.

Sections of this manual may refer to Interpretation bulletins, CRA tax guides, Forms and other materials. When possible, a referred guide or form may be accessed by clicking on the referenced hyperlink. These links in most cases will refer you to a web page; therefore, your Internet connection should be active.

Example link: [more information](#)

When working through this guide, place a check mark in the box next to the answer that is appropriate for your situation (employee or self-employed). When you have answered all of the questions, count the check marks. If you have more in employee, it is very likely you are an employee; if you have more in self-employed, you may meet the criteria for a self-employed person. If the question does not apply to your specific situation, leave it blank.

***Note: Do Not rely on this guide to make the final determination as to the status of the relationship between your business and another individual. If you are ever in doubt, contact CRA and request a ruling.***



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## Employee or Self-Employed?

If a person is not an employee, it follows that they are self-employed. Sometimes the distinction is an obvious one, however, in some instances it may not be obvious and the individual circumstances must be considered.

The most common scenario is that of an employee who wants to be treated as self-employed. This classification would offer several advantages:

- Self-employed individuals are allowed to deduct all reasonable expenses incurred in earning income while employees are more strictly limited
- Self-employed individuals avoid paying E.I. premiums (of course, they are also unable to collect benefits)
- The employer does not have to make contributions to C.P.P. or E.I., Provincial Health Taxes or Workers Compensation Premiums, thereby potentially saving the employer thousands of dollars.

It is not enough for an individual to classify himself or herself as self-employed. It is not even enough if both employer and employee agree on the classification, similarly any written agreements will not override the facts of the situation.

At the end of the day, CRA will determine whom is an employee and whom is self-employed based upon some fairly complex criteria.

### **Factors used to Determine Status**

The following tests can be used to determine if an individual is an employee or self-employed:

#### **1) Control**

- Is there a master (employer) / servant (employee) relationship?
- Can the master select (hire) and dismiss (terminate) the servant?
- Does the master control the method in which the work is carried out and set the terms of payment?

#### **2) Degree of Integration**

- Is the individual an integral part of the employer's organization?
- Would an ordinary person view the relationship as that of employer and employee?

#### **3) Economic Reality**

- Is the individual carrying on business for personal gain or for the benefit of someone else (the employer)?
- Does the worker have an opportunity for profit (in an accounting sense) from the services provided?
- Does the worker bear any risk of loss with respect to the activity?
- Does the worker provide his or her own tools or equipment
- Is there a lasting or permanent relationship between the parties?
- Is the worker permitted to provide similar services to other parties and does the worker actively search out other business opportunities

Generally, if the worker receives direction from the business, supplies no capital (tools or equipment), bears no financial risk or liability, has a lasting relationship with the business and does not have the opportunity to provide services to others, they would be considered to be an employee.



#### 4) **Specific Result**

- Is the work performed to achieve a specific result or for an indefinite period of time
- Is the contract such that the individual worker must provide the service or just ensure that the task is completed and not necessarily do the work themselves

Commission salespeople or traveling salespeople present another type of situation. Canada Revenue Agency considers three main factors in determining their status:

1. Salesperson is not restricted to the supplier's product and can sell other products whether or not they are competitive
2. Salesperson is not required to personally sell the product
3. Salesperson is given no instruction about what territory to cover, what client to approach or when and how to perform the work

All three factors together indicate self-employed status, if one of these factors is missing, then the tests discussed earlier must be taken into consideration.

#### **Personal Services-Corporation**

The term personal services corporation refers to the situation where an individual, who would normally be considered an employee, forms a corporation and provides the services through the corporation. The purpose of this rule is to restrict the deductions of the corporation to those allowed by employees. If you think you may have this situation, you must ensure the corporation is calculating net income correctly.

**Note: If ever in doubt as to the status of an individual, Request a Ruling from CRA ([see Requesting a Ruling Later in this Guide](#))**

**Note: Each situation is different and should be analyzed independently of any other decision or ruling by CRA.**



## **Questions CRA will Ask**

(CRA Guide RC4110)

The following questions and responses are directly extracted from the CRA Guide; the responses will assist you in determining how best to answer the questions. The CRA questions are purposefully vague; they want people to be deemed employees, as opposed to self-employed.

In order to know if a worker is an employee or a self-employed individual, and if there is an employer-employee relationship or a business relationship you have to consider four main factors:

1. Control
2. Ownership of tools
3. Chance of profit/ Risk of Loss
4. Integration

### **1. Control**

In an employer-employee relationship, the employer controls the way work should be done and different work methods used. They give a specific task that describes the way the framework within which the work is to be done.

- If the employer does not control the activities of the worker, but has the right to, the idea of control still exists.
- Control can vary depending on the type of work and also depend on the employee's experience and skill.
- The employer tends to control if they have the right to hire and fire, determines the wage or salary to be paid, and decides how the work has to be done.

The employer can control:

- The hours of work
- The assessment of the quality of the work
- The worker's activity reports
- The list of clients and territory covered
- Training and Development

In a business relationship, the employer does not usually control the workers activities. The worker can determine how the work will be performed.

#### ***Questions Related To Control:***

##### **Q: Who is responsible for planning the work to be done?**

- If the individual is self-employed, they would determine when, and where the work is to be done,
- If the individual is an employee, the employer dictates when and where the work is to be done

##### **Q: Who decides how and how much the worker is to be paid?**

- If the individual is self-employed, they generally determine the rate of pay and the payment terms, for example, the individual quotes \$50 per hour payable upon receipt of invoice
- If the individual is an employee, the employer dictates the individual will be paid, for example, every 2<sup>nd</sup> Friday.

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**Q: Who decides on the time frames?**

- If the individual is self-employed, they will generally determine the period of time it will take to complete the job or project
- If the individual is an employee, the employer will determine when the project must be completed.

**Q: Who decides on how the work is to be done?**

- If the individual is self-employed, they would determine the means by which the work is completed, for example they determine they will use Simply Accounting for the Bookkeeping
- If the individual is an employee, the employer will generally dictate how the work is to be done.

**Q: Who decides the hours of work?**

- If the individual is self-employed, they would generally set their own hours, determine when lunch/breaks occur, and which days of the week they will work
- If the individual is an employee, they generally will have little choice in determining the hours of work

**Q: Who decides on the work locations?**

- If the individual is self-employed, they generally can dictate where the work will be performed, for example, a self-employed bookkeeper may determine that they will take care of the books in their own office or at the client site.
- If the individual is an employee, the employer will generally determine where the work is to be performed.

**Q: Who assigns the individual tasks?**

- If the individual is self-employed, they would likely assign their own tasks and would decide the priority of each.
- If the individual is an employee, their tasks would generally be assigned to them (maybe as part of their job description) and they would be prioritized by their supervisor

**Q: Who sets the standards to be met?**

- If the individual is self-employed, they would determine the standards for their work and what is acceptable to them.
- If the individual is an employee, the employer or the individuals supervisor would determine the standards and if the work has been completed satisfactorily
  - **Quality?** If the person is self-employed, they would determine the acceptable quality; if the individual is an employee, the employer or supervisor would determine acceptable quality
  - **Volume?** If the person is self-employed, they would determine the volume of work to be completed in the given time frame; if the person is an employee, the employer or their supervisor would determine the acceptable volume.
  - **Time Frame?** If the person is self-employed, they would determine the required time-frame to complete the work; if the individual is an employee, the employer or their supervisor would determine the time frame for completing the work.

**Q: Who decides whether work must be redone?**

- If the individual is self-employed, they would determine (according to quality) if the work is satisfactory and whether or not it must be redone.
- If the individual is an employee, the employer or their supervisor would determine if the work is satisfactory and if the employee must redo the work.

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- **Who covers the related costs?** If the individual is self-employed, they would be responsible for the associated costs of redoing the work; if the individual is an employee, the employer would be responsible for the associated costs of redoing the work.

**Q: Who is responsible for training?**

- If the individual is self-employed, they would be responsible for keeping their training up to date
- If the individual is an employee, their employer would be responsible for ensuring their training is up to date.
- **Who covers the related costs?** If the individual is self-employed, they would be responsible for any training related costs; if the individual is an employee, their employer would be responsible for the costs associated with any required training.

**Q: Who decides on the territory to be covered?**

- If the individual is self-employed, they would likely determine the territory that they could work or service.
- If the individual is an employee, the employer or another individual would determine the area to be worked or serviced.

**Q: Who decides on periodic activity reporting?**

- If the individual is self-employed, they would decide what reports they would provide to the business as well as the period in which they are provided.
- If the individual is an employee, they would be told by another person what reports were to be provided and when.

**Q: Who decides if the work is to be done by the workers themselves?**

- If the individual is self-employed, they would decide who is responsible to do the work, and possibly assign the work to others.
- If the individual is an employee, they would be told whom is responsible for doing the work and whether or not other individuals could be assigned some of the tasks.

**Q: Who hires helpers?**

- If the individual is self-employed, they would be responsible for hiring additional persons if the job required more labour.
- If the individual is an employee, the employer or another individual would be responsible for the hiring of additional labour.

## 2.0 Ownership of Tools

Some points to consider about Ownership of Tools are:

- The amount invested
- The value of equipment and tools
- The rental and maintenance of equipment and tools.

In an employer-employee relationship, the employer usually supplies the equipment and tools required by the employee. The employer also covers costs for repairs, insurance, transport, rental and operation. In some cases, the employees supply their own tools. This applies to garage mechanics, and carpenters.



In a business relationship, workers usually supply their own equipment and tools and cover costs used for their use. When workers purchase or rent equipment it usually indicates that they are self-employed.

**Questions Related to Tools:**

**Q: Who supplies the heavy equipment or covers its rental costs?**

- If the individual is self-employed, they would be responsible for the supply of equipment to complete the job as well as the cost of the rental
- If the individual is an employee, the employer would be responsible for the supply of the equipment and the associated rental costs.

**Q: Who supplies the specialized equipment or covers its rental costs?**

- If the individual is self-employed, they would be responsible for the supply of any specialized equipment to complete the job as well as the cost of the rental
- If the individual is an employee, the employer would be responsible for the supply of the equipment and the associated rental costs.

**Q: Who covers equipment maintenance costs?**

- If the individual is self-employed they would be responsible for any repairs and maintenance costs related to the equipment
- If the individual is an employee, they would not be responsible for any repairs or maintenance costs.

**Q: Who supplies the large tools or covers their rental costs?**

- If the individual is self-employed, they would be responsible for the supply of any large tools required to complete the job as well as the cost of the rental
- If the individual is an employee, the employer would be responsible for the supply of any large tools and the associated rental costs.

**Q: Who supplies the specialized tools or covers their rental costs?**

- If the individual is self-employed, they would be responsible for the supply of any specialized tools required to complete the job as well as the cost of the rental
- If the individual is an employee, the employer would be responsible for the supply of any specialized tools and the associated rental costs.

**Q: Who supplies the small tools?**

- If the individual is self-employed, they would be responsible for the supply of any small tools required to complete the job.
- If the individual is an employee, the employer would supply the required small tools.

**Q: Who covers tool maintenance costs?**

- If the individual is self-employed, they would be responsible for the maintenance costs associated with the tools.
- If the individual is an employee, the employer or business owner would be responsible for the costs associated with maintaining the tools.

**Q: Who supplies the materials?**

- If the individual is self-employed, they would likely supply the materials required to complete the work
- If the individual is an employee, the employer or business owner would supply the materials required for the job.



**Q: Who has invested in the equipment and tools?**

- If the individual is self-employed, they would have made the investment in the equipment and tools required to complete the job.
- If the individual is an employee, the equipment and tools would be an investment of the employer or business owner.

**3.0 Chance of Profit/ Risk of Loss**

You have to examine the worker's financial involvement. Determine if the worker:

- Has the chance of making a profit.
- Risks incurring losses due to bad debts, damage to equipment and materials
- Covers operating costs

An employer-employee relationship, the employer assumes the risk of loss. The employer usually covers operating costs and the employee does not presume any financial risks. The employee is entitled to their full salary regardless of the financial health of the business.

In a business relationship, the self-employed individual may make a profit or incur in a loss. There is no assurance of a stable income because the self-employed individual's income depends on the results achieved by the end of the contract.

**Questions Related to Profit/Loss**

**Q: Who covers the costs of damage to equipment or materials?**

- If the individual is self-employed, they would be responsible for the costs of damage or loss to equipment, tools, materials and supplies.
- If the individual is an employee, loss, damages and repairs would be the responsibility of the employer or business owner.

**Q: Who covers the costs of liability insurance?**

- If the individual is self-employed, they would carry their own insurance and cover the related costs.
- If the individual is an employee, they would not have any insurance responsibilities

**Q: Who covers the office expenses?**

- If the individual is self-employed, they would be responsible for maintaining their own office as well as the associated expenses
- If the individual is an employee, they would have an office provided and the related expenses paid by the employer or business owner

**Note:** *In many employer-employee relationships the employee may be required to maintain a home-office and pay for the related expenses. This does NOT make them self-employed. The other factors of the relationship must be taken into consideration.*

**Q: Who covers rental costs?**

- If the individual is self-employed, they would be responsible for covering the costs of renting an office
- If the individual is an employee, the office rental costs would be covered by the employer or business owner.



**Q: Who covers delivery and shipping costs?**

- If the individual is self-employed, they would likely be responsible for the delivery and shipping costs.
- If the individual is an employee, they would not have to bear any costs associated with delivery and shipping.

**Q: Who covers costs related to bad debts?**

- If the individual is self-employed they would cover the cost of any bad debts or collection related issues
- If the individual is an employee, they would not be responsible for bad debts or collection costs.

**Q: Who assumes responsibility for ensuring that guarantees relating to materials are honoured?**

- If the individual is self-employed, they would be responsible for ensuring warranties and guarantees are honoured.
- If the individual is an employee, they would not be responsible for meeting warranty and guarantee requirements.

**Q: Who assumes responsibility for the performance of the work?**

- If the individual is self-employed, they would be responsible for the performance and completion of the work.
- If the individual is an employee, they may not be responsible for the performance and may be supervised by another individual.

**Q: Who guarantees the quality of work?**

- If the individual is self-employed, they would guarantee that the quality meets the quality requirements of the work.
- If the individual is an employee, the employer or business owner would provide the quality guarantee.

**Q: Who covers the costs incurred by the worker in carrying out the work?**

- If the individual is self-employed, the costs associated with completing the work would be their responsibility
- If the individual is an employee, the employer or business owner would be responsible for the work related costs.

**Q: Who covers the costs of the worker's benefits (paid vacation, sick leave, life insurance premiums, etc.)?**

- If the individual is self-employed, they would 'bill' the client, but vacations, sick time, and other related benefits would be their sole responsibility
- If the individual is an employee, the employer or business owner would schedule vacations, pay for the benefits etc.

## 4.0 Integration

Integration has to be considered from the point of view of the worker, not the payer. In a business relationship the worker is acting on his own behalf, he is not dependent on the payer's business and they are in business for themselves.

In an employer-employee relationship the worker integrates his activities to the commercial activities of the payer. The worker is connected with the employer's business and is dependent on it.



**Questions Related to Integration:**

**Q: What was the answer to most of the questions related to the control factor?**

- If the individual is self-employed, it should be very clear whom is in control of the relationship based upon:
  - o Responsibility
  - o Wages
  - o Time Frames
  - o Quality
- If the individual is an employee, they would be under the 'control' of the business owner or another individual

**Q: What was the answer to most of the questions related to the ownership of tools factor?**

- If the individual is self-employed the tools, materials, supplies, equipment etc., should clearly belong to the individual
- If the individual is an employee, it should be quite clear that the employer or other individual supplies the tools, equipment etc.

**Q: What was the answer to most of the questions related to the chances of profit/risk of loss factor?**

- If the individual is self-employed, they should clearly be at risk of losses or generation of profits relating to the work they are performing.
- If the individual is an employee, they clearly would not be at risk of profit or loss relating to the work that they perform.

**Summary**

In the table below, enter the results of the answers to the questions in the above sections; use the total 'checks' for employee / self-employed

<b>Section</b>	<b>Employee</b>	<b>Self-Employed</b>
<b>Control</b>		
<b>Ownership of Tools</b>		
<b>Chance of Profit / Loss</b>		
<b>Integration</b>		
<b>TOTALS</b>		

Divide the TOTALS by the number of questions that you answered, (do not count answers that were not applicable).

If the results heavily favour Employee, then it should be quite clear that an employee-employer relationship exists. Likewise, if the results heavily favour Self-employed, then it is probable that the individual would meet the requirements of self-employment.

***If the results are close in any way, you are best advised to request a ruling from CRA.***



## **Responsibilities Employer-Employee Relationship**

If you have determined that the individual is an employee, the employer will have several responsibilities to various Government bodies and agencies such as:

- [Canada Revenue Agency \(CRA\)](#)
- [Ministère du Revenu du Québec](#)
- [Human Resources and Skills Development Canada \(HRSDC\)](#)
- [Workplace Safety and Insurance Board or Workers Compensation Board](#)
- [Commission de la Santé et de la Sécurité du Travail \(CSST\)](#)
- Provincial Government Agencies for Health or related Payroll Taxes
- Provincial Ministry of Labour
- [Statistics Canada](#)

Employer's responsibilities will also include

- Collection, maintenance and retention of detailed personnel records
- Collection, maintenance and retention of detailed payroll records

In addition, an employer may have responsibilities to private insurance carriers, unions or other trade associations, private pension plan trustees and in some instances, the Court system. All of these situations will be further discussed later in this manual.

### **Responsibilities to the Canada Revenue Agency**

Responsibilities to the Canada Revenue Agency may include:

- Collection of Federal and Provincial Income Taxes
- Collection of Canada Pension Plan Premiums
- Collection of Employment Insurance Premiums
- Remittance of Deductions noted above along with company matching contributions on or before the due dates
- File an Annual Information Return (T4's and T4 Summary) on or before the due date
- Compliance with legislation

### **Responsibilities to the Ministère du Revenu du Québec**

The Ministère du Revenu du Québec operates very similarly to CRA in the sense that the agency administers the collection of certain payroll taxes for the Quebec government. Responsibilities to the Ministère will include:

- Collection of Quebec Provincial Income Tax
- Collection of Quebec Pension Plan Premiums
- Calculation of Compensation Tax (if applicable)
- Calculation of Contributions to the Health Services Fund
- Calculation of contributions to the financing of the Commission des normes du travail (CNT)
- Calculation of the contribution to the Fonds national de formation de la main-d'oeuvre (FNFMO)
- Remittance of deductions noted above along with any company matching contributions on or before the due dates
- File an Annual Information Return (RL-1 and RL-1 Summary) on or before the due date
- Compliance with legislation



## **Responsibilities to Human Resources and Skills Development Canada**

The employer will have the responsibility of:

- Completing and submitting of Records of Employment (ROE)
- Participation in the Report on Hirings Program when required (ROH)
- Completion of Request for Payroll Information when required (INS5097)
- Participation in the Automated Earnings Reporting System (AERS) if required

In addition, if an employer suspects or has knowledge that an individual is or is attempting to collect Employment Insurance benefits while working, it is the employers responsibility to report the suspected individual to HRSDC.

## **Responsibilities to Workers Compensation Boards**

Although the rules may vary somewhat depending on the Province the business is established in, generally an employers responsibilities to the Workers Compensation Board as well as Commission de la Santé et de la Sécurité du Travail (CSST) in Quebec are:

- Calculation and remittance of premiums on or before the due dates
- Timely reporting of workplace injuries or accidents
- Compliance with Health and Safety Regulations
- Training of employees with respect to Health and Safety

In addition, if an employer suspects or has knowledge that an individual is or is attempting to collect Workers Compensation benefits while working, it is the employers responsibility to report the suspected individual to the Provincial Workers Compensation Board.

## **Responsibilities to Statistics Canada**

Certain employers are randomly selected to participate in Statistics Canada surveys to assist with the development of information and trends in employment and staffing. If an employer is selected, the must complete the surveys as accurately and as completely as possible and return them to Statistics Canada on or before the return due date.



## **Requesting a Ruling from CRA**

Whenever you are in doubt, or even if the situation appears to be clear, it is advisable to request a ruling from CRA on the status of the individual. There are 2 methods available to obtain a ruling:

1. Complete form [CPT1, "Request for Ruling as to the Status of a Worker Under the Canada Pension Plan and/or the Employment Insurance Act"](#). This form may be completed by the worker, the payor, or a representative of the business making the payments.
2. If the business is owned by a number of shareholders, it is advisable to complete and attach form [CPT59, "Corporate Share Arrangement"](#)
3. CRA will accept written requests for rulings providing the request gives complete details of the conditions of employment, the relationship between the employee and employer as well as any other information that may be deemed relevant in making a decision.

In either case, the applicant should include copies of any employment contracts, agreements, comparisons and job descriptions / functions of the individual that the ruling pertains to.

### **Completing form CPT1**

CPT1 is a very brief form and does not provide much room for information that may be relevant. As noted above, attaching copies of other pertinent information will assist CRA in determining the status of the individual. One form may be filed for multiple individuals if the terms and conditions of employment are the same for all. If such is the case, you must attach a separate list of names, address, home telephone, business telephone and SIN's of the individuals related to the ruling. Requests for rulings may be made up to June 30<sup>th</sup> of the year following the period for which you are requesting a ruling.

Upon review of the Request for Ruling, CRA will contact the individual and the payer either by telephone, in person or both to discuss the circumstances surrounding the request. Once CRA has ruled, they will notify both parties in writing.

The form is comprised of 3 sections:

#### **Section 1 – Who is completing the application?**

If the application is being completed by a representative (third party) and not the worker or payer, the representative must attach form [T1013, Authorizing or Canceling a Representative](#). This form allows the representative to act on behalf of the other parties for the tax year concerned or for other/all years. Without this form CRA will not talk directly to the representative. In absence of the form, CRA will accept a letter signed by all parties, consenting to the release of information.

#### **Section 2 – The Payer**

This section relates to information about the employer (business) and must include the Name, business number, address, phone number, officer and province of employment for which the ruling relates to.

#### **Section 3 – The Worker**

This section relates to information about the individual that is, was, or will be receiving the payments from the business.

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As you can see by the above, there is no area for any descriptions or comments relating to the type of employment, relationship to the employer, or other relevant information. It is therefore necessary to attach a letter or other information to properly describe the circumstances.

In the past, the CPT1 form have 5 questions that assisted CRA to determine the status of the individual. Although these questions do not appear on the form any longer, they are the types of questions that CRA will ask during a telephone conversation or meeting with the persons involved.

### Question 1.

**Describe the circumstances and conditions under which the person works and the nature of their work.**

Items to consider:

- Relationship to employer – Brother, Sister, Spouse, Child etc.
- Position in the company
- Are they treated differently than other employees? If so, explain how and why. (This will assist CRA in determining if they are dealing at Arm's length or Non-Arm's length.
- If this individual did not work for the business, would another person be hired for the same position with the same or similar responsibilities?

### Question 2.

**How and when is the worker paid and what is the basis on which the worker is paid?**

Items to consider:

- Are they paid hourly or salary
- Are they paid overtime if applicable
- Are they entitled to Bonuses or a reduction in pay depending on the performance of the business?
- Are they paid in similar fashion as another person would be in the same position?

### Question 3.

**Is the worker responsible for any losses, expenses or damages that the worker may cause? If so, explain the level of responsibility.**

Items to consider:

- If the individual's pay could be negatively affected by loss or damage they caused, it should be mentioned.

### Question 4.

**Do you exercise any control over the worker and if so, describe it.**

Items to consider:

- Exercising control over an individual may demonstrate an Arm's length relationship, however in many businesses employees are allowed to determine their own hours.
- Does the business determine when the individual is entitled to vacations



## Question 5.

### State the reasons why you believe the worker is an employee or Self-employed.

Items to consider:

- Does the individual perform services for other businesses as well as yours?
- Does the individual have the ability to control their earnings / expenses?
- Can the individual be terminated in the same or similar fashion of another individual?
- Is there a contract of service for a specified project or time period?

### Other items to consider:

- CRA will review all of the information provided and will verify as much of the information as possible by interviewing all concerned parties.
- Ensure that all parties related to the ruling have a copy of the Request for Ruling for reference purposes.
- Be as clear as possible in the information you provide. Being vague or misleading may adversely affect the ruling or further delay the process.
- Requests for Rulings can take up to 3 months to process.
- Retain the ruling letter for your records. Should the business be the subject of a payroll or trust compliance audit, the employer will have to produce a copy of the ruling.
- If the circumstances of employment change for an individual, request another ruling.
- EVERY request is handled independently and is unique. CRA does not have set profiles for determining the status of an employee and will review all of the information provided in exercising their judgment.
- If you are not thorough and truthful in the application, the ruling may not be rendered as you desired.
- Seek advice from an Accounting Professional when completing the application to ensure that you have completed the request properly.
- A Request for Ruling may be appealed. If the decision is not rendered according to what you desired, you may appeal by providing further information or offering clarification on the situation.



## **Appealing a CRA Ruling**

As mentioned above, if a decision is rendered that is not favourable, you may file an appeal by completing form [CPT100, Appeal Under the Canada Pension Plan and/or Employment Insurance Act](#). An appeal may also be filed by writing a letter of appeal and addressing it to the Chief of appeals of the nearest CRA office. In either case, you must attach a copy of the ruling letter, notice of assessment and other relevant documents.

### **Who can file an appeal?**

- The employer who requested the initial ruling
- The worker that the ruling affected
- A representative of either party, providing they have consent ([see consent form above](#))

### **When must an appeal be filed?**

- An appeal must be postmarked within 90 days of notification of the ruling. As this is not clear, it is best to appeal within 90 days of the Date on the Letter of Ruling.
- An appeal relating to a Notice of Assessment must be postmarked within 90 days of the date indicated on the Notice of Assessment.

### **Other Considerations:**

- If you applied for a ruling before June 30<sup>th</sup>, the appeal will be based upon a ruling for both the current and previous calendar year.
- If you applied for a ruling after June 30<sup>th</sup>, the appeal will be based solely upon a ruling for the current year.
- You must file a separate appeal for each ruling letter received, unless the rulings involve the same employee/employer for more than one period.
- You must file a separate appeal for each Notice of Assessment being appealed.
- If the address or contact information of any of the appellants changes during the appeal process, you must notify the Chief of Appeals at the nearest CRA tax office of the change.
- Further information is available from CRA in the Brochure [P133 "Your Appeal Rights: Employment Insurance and Canada Pension Coverage"](#)
- If an appeal to the Chief of Appeals is not satisfactory, further appeals may be filed with:
  - The Federal Court of Appeal
  - The Tax Court of Canada



## **Other Guides and Information available from Ledgers:**

- Income Tax for Students
- Income Tax for Senior Citizens
- Income Tax for Persons with Disabilities
- Income Tax for Persons with Chronic Health Problems
- Income Tax for the Self-Employed
  
- Guide to Incorporations
- Employment Insurance – Who is Exempt?
- Buying and Selling a Business
- Employee or Self-Employed? What will CRA say?
- Financial Ratios and Bank Financing
- Records Retention – How long do you have to keep information?



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