

## Employee versus Contractor

Factors the Australian Taxation Office will consider to determine if a worker is an employee or a contractor.

Factors to consider	Employee	Contractor
<b>Ability to sub-contract/delegate</b>	An <b>employee</b> cannot sub-contract/delegate the work - they cannot pay someone else to do the work in their place.	A <b>contractor</b> is free to sub-contract/delegate the work - they can pay someone else, with appropriate expertise, to do the work in their place.
<b>Basis of payment</b>	An <b>employee</b> is paid for their direct output i.e. the number of hours worked, the number of items produced or activities completed.	A <b>contractor</b> is paid for a result achieved based on the quote they provided.
<b>Equipment, tools and other assets:</b>	An <b>employee</b> will usually have all or most of the necessary tools and equipment provided to them to complete their work, or  If the <b>employee</b> provides their own tools and equipment, the business will provide them with an allowance or reimburses them for the cost of the equipment, tools and other assets.	A <b>contractor</b> will provide all or most of the equipment, tools and other assets required to complete the work.  A <b>contractor</b> does not receive an allowance or reimbursement for the cost of this equipment, tools and other assets.
<b>Commercial risks</b>	An <b>employee</b> takes no commercial risks. The business is legally responsible for the work performed by the worker and liable for the cost of rectifying any defect in the work.	A <b>contractor</b> takes commercial risks, and is legally responsible for their work and liable for the cost of rectifying any defect in their work.
<b>Control over the work</b>	An <b>employee</b> has little control over the work. The business has the right to direct the way in which the employee performs their work.	A <b>contractor</b> has control over the work and has freedom in the way the work is done, subject to the specific terms in any contract or agreement.
<b>Independence</b>	An <b>employee</b> is not operating independently from your business. They work within and are considered part of your business.	A <b>contractor</b> 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.