



ICCA NEWS

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Comparison of Employee & Independent Contractor Indicators:

The following table outlines employee and contractor indicators in terms of the various factors utilised by the courts in determining whether a worker is an employee or an independent contractor.

Factor	Employee Indicator	Independent Contractor Indicator
Control	The worker is subject to the direction of the business operator, or the direction of an employee of the business operator, as to where, when and how the work is to be performed.	The worker is free to decide the manner in which they will complete the task and achieve the agreed result.
Payment	The worker is paid on a time basis or at 'piece rates'.	The business operator pays the worker on the basis of a quote to achieve a set result (generally without regard for the time taken). Payment is made to an interposed entity.
Provision of labour/ materials	The worker wholly or predominantly provides labour. The business operator supplies all or most of the materials and equipment necessary for the worker to perform their services. Where the worker provides their own tools or materials they are usually reimbursed or paid an allowance.	The worker supplies all or most of the materials, equipment and tools needed to complete the contracted work (not just tools of the trade or a motor vehicle used to drive to and from a work site).
Entitlements	The worker receives superannuation, sick leave, recreation leave or long service leave or is paid extra in lieu of such entitlements.	The worker makes provision for their own superannuation and is not entitled to sick leave, recreation leave or long service leave.
Tax	Income tax is deducted from the payments made to the worker.	Income tax is not generally withheld from the payments made to the worker. However, a worker can request a business operator to withhold tax from payments made to them (see Section 12-55 of Schedule 1 to the <i>Taxation Administration Act 1953</i> (Cwth)). In these cases, the voluntary withholding of tax is not necessarily indicative of an employer/employee relationship.
Hours of work	The worker works set hours (either by agreement with the business operator or under an award).	The worker works the hours necessary to complete the task to the standard, and within the timeframes, specified by the business operator.

Special points of interest:

Company Details

Vicca Chartered Accountants

Level 9
97 Creek Street
Brisbane Qld 4000

GPO Box 3015
Brisbane Qld 4001

Ph: (07) 3012 8748
Fax: (07) 3012 8700
Email: noe@viccaca.com

www.viccaca.com

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