

Oregon's Interagency Compliance Network

Oregon's Independent Contractor Laws

A worker providing services for pay will generally be considered an employee - unless that worker also meets the criteria established for an independent contractor.

Oregon Revised Statutes (ORS) 670.600 provides a standardized definition of independent contractor for the following four agencies:

- Department of Revenue,
- Employment Department,
- Construction Contractors Board, and
- Landscape Contractors Board

To be considered an independent contractor under ORS 670.600 (summarized below) a worker must be:

1. Free from direction and control, **AND**
2. Customarily engaged in an "independently established business," **AND**
3. Licensed under ORS 671 or 701 (State Board of Architect Examiners, Landscape Architect Board, Landscape Contractors Board or Construction Contractors Board) if licensure is required for the service, **AND**
4. Responsible for any other licenses or certificates necessary to provide the service.

The Bureau of Labor and Industries and the Workers' Compensation Division use other, specific legal tests to determine proper classification. Visit the ICN website for more on each of these. ►

A classification determination must conform with specific legal criteria, however, the comparison chart below highlights some common differences between an employee and an independent contractor.

| EMPLOYEE | INDEPENDENT CONTRACTOR |
|---|--|
| Means and manner of work are controlled by employer | Free from direction and control |
| Does tasks the employer's way | Does tasks in own way |
| Trained by employer to perform job | Has necessary skills and training to complete job |
| Works under the employer's assumed business name | Has an assumed business name |
| Works at employer's business location | Has a business location |
| Works for one employer, may serve that employer's customers | Performs services for multiple customers |
| Works hours set by employer | Sets own hours |
| Accepts wage, salary, or commission determined by the employer | Determines own price for contracted services |
| May be covered by minimum wage, overtime, safety, unemployment, and workers' compensation | Not eligible for employee benefits |
| Not directly affected by employer's profit or loss | Directly affected by business profit or loss |
| Employer provides and controls equipment and tools | Owens equipment and tools used to complete job |
| Employer purchases materials and supplies | Purchases materials and supplies needed to do job |
| Employer liable for employee errors and/or accidents | Personally liable for errors and/or accidents |
| Does not file self-employment taxes; receives a Form W-2 from employer | Files self-employment taxes; receives a Form 1099-MISC |
| Is hired and/or fired by employer | Has right to hire and fire workers |
| May quit working for an employer at any time | Must legally complete each contract |

More information is available at: www.OregonIndependentContractors.com

Worker Misclassification: What's at stake?

Misclassifying a worker can be costly to an employer. Depending on the situation, Oregon law allows, and often requires, state agencies to impose back taxes, penalties, and interest on employers that are misclassifying their workers.

Misclassified employees run the risk of losing out on lawful benefits and protections like unemployment insurance, income tax withholding, workers' compensation coverage for on-the-job injuries, minimum wage and overtime protections, as well as other workplace protections under civil rights and wage and hour law. Misclassified employees will almost certainly forfeit benefits offered to properly classified employees such as sick leave, vacation pay and retirement benefits.

Where do I go from here?

Oregon's enforcement agencies want to help you make the right decision. The ICN website has information about all of the legal tests to consider, as well as how to file a complaint on suspected unlawful activity.

Still not sure? Consider contacting our sponsor agencies directly. ►

Helping You Make the Right Decision

You can contact any of these agencies directly for additional information:

Oregon Employment Department

oad_taxinfo_user@oregon.gov

503-947-1544 ext. 6

Oregon Department of Revenue

Gregory.McAllister@oregon.gov

971-301-1805

Workers' Compensation Division, Department of Consumer & Business Services

wcd.employerinfo@oregon.gov

503-947-7815 ~ In Oregon 888-877-5670

Oregon Bureau of Labor and Industries

mailb@boli.state.or.us

971-673-0761

Construction Contractors Board

ccb.info@state.or.us

503-378-4621

Landscape Contractors Board

lcb.info@state.or.us

503-967-6291

Internal Revenue Service

www.irs.gov

800-829-1040

TTY users, dial 711 to be connected to the Oregon Relay TTY System, which can then connect you to whichever agency you wish to contact.

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**EMPLOYEE
or
INDEPENDENT
CONTRACTOR?**

SORTING OUT THE
CONFUSION:
What you need to know
about worker classification!

www.oregindependentcontractors.com