

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
taxinfo@emp.state.or.us
503-947-1520

Oregon Department of Revenue
ic.info.dor@state.or.us
503-378-4988 ~ 800-356-4222

**Workers' Compensation Division,
Department of Consumer &
Business Services**
wcd.employerinfo@state.or.us
503-947-7815 ~ In Oregon 888-877-5670

Oregon Bureau of Labor and Industries
BOLI.MAIL@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
503-378-5909

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.oregonindependentcontractors.com