



Applicable before 1/1/2006

Independent Contractors

Generally, Oregon law requires employers to pay unemployment taxes on employee wages by filing Oregon Quarterly Tax Reports.

Individuals who are hired and compensated for services are employees and their compensation for services is taxable wages unless specifically excluded by law.

Individuals who meet the statutory definition of an independent contractor are not employees and their compensation for services is not taxable wages. The Oregon Revised Statute (ORS) defining an independent contractor, as shown below, lists eight standards that must be met. Individuals who do not meet ALL EIGHT of the standards are employees and their compensation for services is taxable wages.

ORS 670.600 Independent contractor; standards.

As used in various provisions of ORS chapters 316, 448, 656, 657, 671, and 701, an individual or business entity that performs labor or services for remuneration shall be considered to perform the labor or services as an “independent contractor” if the standards of this section are met:

- (1) The individual or business entity providing the labor or services is free from direction and control over the means and manner of providing the labor or services, subject only to the right of the person for whom the labor or services are provided to specify the desired results;
- (2) The individual or business entity providing labor or services is responsible for obtaining all assumed business registrations or professional occupation licenses required by state law or local government ordinances for the individual or business entity to conduct the business;
- (3) The individual or business entity providing labor or services furnishes the tools or equipment necessary for performance of the contracted labor or services;
- (4) The individual or business entity providing labor or services has the authority to hire and fire employees to perform the labor or services;
- (5) Payment for the labor or services is made upon completion of the performance of specific portions of the project or is made on the basis of an annual or periodic retainer;
- (6) The individual or business entity providing labor or services is licensed under ORS chapter 701, if the individual or business entity provides labor or services for which licensure is required;
- (7) Federal and state income tax returns in the name of the business or a business Schedule C or farm Schedule F as part of the personal income tax return were filed for the previous year if the individual or business entity performed labor or services as an independent contractor in the previous year; and
- (8) The individual or business entity represents to the public that the labor or services are to be provided by an independently established business. Except when an individual or business entity files a Schedule F as part of the personal income tax returns and the individual or business entity performs farm labor or services that are reportable on Schedule C, an individual or business entity is considered to be engaged in an independently established business when four or more of the following circumstances exist:
 - (a) The labor or services are primarily carried out at a location that is separate from the residence of an individual who performs the labor or services, or are primarily carried out in a specific portion of the residence, which portion is set aside as the location of the business;

- (b) Commercial advertising or business cards as is customary in operating similar businesses are purchased for the business, or the individual or business entity has a trade association membership;
- (c) Telephone listing and service are used for the business that is separate from the personal residence listing and service used by an individual who performs the labor or services;
- (d) Labor or services are performed only pursuant to written contracts;
- (e) Labor or services are performed for two or more different persons within a period of one year; or
- (f) The individual or business entity assumes financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of performance bonds, warranties, errors and omission insurance, or liability insurance relating to the labor or services to be provided.

Questions

If you have questions or need additional information, please contact the Employment Department tax representative in your area or call 503-947-1488; TDD/Nonvoice Users 711 or by email at taxinfo@emp.state.or.us
You may also visit our web site at www.Oregon.gov/employ/tax

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