



Applicable after 12/31/2005

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 standards that must be met. Individuals who do not meet ALL of the standards are employees and their compensation for services is taxable wages.

ORS 670.600 Independent Contractor Statute

- 1) As used in this section:
 - a) "Individual" means a natural person.
 - b) "Person" has the meaning given that term in ORS 174.100.
 - c) "Services" means labor or services.
- 2) As used in ORS chapters 316, 656, 657, 671, and 701, "independent contractor" means a person who provides services for remuneration and who, in the provision of the services:
 - a) Is free from direction and control over the means and manner of providing the services, subject only to the right of the person for whom the services are provided to specify the desired results;
 - b) Except as provided in subsection (4) of this section, is customarily engaged in an independently established business.
 - c) Is licensed under ORS chapter 671 or 701 if the person provides services for which a license is required under ORS 671 or 701; and
 - d) Is responsible for obtaining other licenses or certificates necessary to provide the services.
- 3) For purposes of subsection 2(b) of this section, a person is considered to be customarily engaged in an independently established business if any three of the following requirements are met:
 - a) The person maintains a business location:
 - A) That is separate from the business or work location of the person for whom the services are provided; or
 - B) That is in a portion of the person's residence and that portion is used primarily for the business.
 - b) The person bears the risk of loss related to the business or the provision of services as shown by factors such as:
 - A) The person enters into fixed price contracts;
 - B) The person is required to correct defective work;
 - C) The person warrants the services provided; or
 - D) The person negotiates indemnification agreements or purchases liability insurance, performance bonds or errors and omissions insurance
 - c) The person provides contracted services for two or more different persons within a 12-month period, or the person routinely engages in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
 - d) The person makes a significant investment in the business through means such as:
 - A) Purchasing tools or equipment necessary to provide the services;
 - B) Paying for the premises or facilities where the services are provided; or
 - C) Paying for the licenses, certificates, or specialized training required to provide the services.

- e) The person has the authority to hire other persons to provide or to assist in providing the services and has the authority to fire those persons.
- 4) Subsection 2(b) of this section does not apply if the person files a Schedule F as part of an income tax return and the person provides farm labor or farm services that are reportable on Schedule C of an income tax return.
- 5) For purposes of determining whether an individual provides services as an independent contractor:
 - a) The creation or use of a business entity, such as a corporation or a limited liability company, by an individual for the purpose of providing services does not, by itself, establish that the individual provides services as an independent contractor.
 - b) When the individual provides services through a business entity, such as a corporation or a limited liability company, the provisions in subsection 2, 3 or 4 of this section may be satisfied by the individual or the business entity

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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