

PAYG TAX – EMPLOYEE OR SUB-CONTRACTOR?

If the person working for you is an employee, you **MUST** deduct PAYG tax.
If the person working for you is a contractor (sub-contractor) you do not deduct PAYG tax unless the contractor asks you to do so.

Here are some factors to help you decide if the person working for you is an employee or a contractor.
If in doubt speak to your solicitor or accountant.

Factors to consider	Employee	Contractor
Control over work	You direct and control the work of your employee.	Contractor free to exercise his or her own discretion except where modified by the contract (either verbal or written) agreed with you.
Independence	Contract of employment, either written or verbal, between you and your employee.	Contractor's services specified in his or her contract with you. Provides additional services only by agreement.
Payment	Time-based payments (e.g. weekly). Employee can also work on 'piece rates' or commission.	Payment dependent on performance of the contractor's services.
Commercial risks	Employee generally bears no legal risks in respect of the work. Employer is legally responsible for any work performed by the employee.	Risk borne by the contractor, who must remedy any defective work at his or her own expense.
Ability to delegate	Employee generally cannot subcontract the work to someone else.	Contractor may subcontract or delegate work unless contract specifies otherwise.
Tools and equipment	Employer usually provides tools and equipment.	Contractor usually provides his or her own tools and equipment.

NOTE: The chart above is only a very general guide to how a sub-contractor may be distinguished from an employee under the Income Tax Assessment Act 1936. It has been prepared from the Australian Taxation Office's web site (www.ato.gov.au) and does not purport to give specific advice.

IF IN DOUBT SPEAK TO YOUR SOLICITOR OR ACCOUNTANT.