

# BUSINESS TAX UPDATE

Inland Revenue's tax news for businesses



Issue No 113 • September 2020 • IR381

## REMINDERS

We have key dates to help you meet your obligations. Remember that if a due date falls on a weekend or public holiday, we can receive your return and payment on the next working day without a penalty being applied. But for provincial anniversary dates, this only applies if you're in the province celebrating the holiday, and only if you usually make tax payments over-the-counter at Westpac. [ird.govt.nz/index/key-dates](https://ird.govt.nz/index/key-dates)

If you have any suggestions for topics you'd like covered in this newsletter, Email [BusinessTax.Update@ird.govt.nz](mailto:BusinessTax.Update@ird.govt.nz)

## Find us on Social!

Did you know we're on Facebook, Twitter, LinkedIn and YouTube?

We invite you to visit us on our official social media channels for important updates, information and reminders to help you get your taxes and entitlements right.

Find our social media channels at [ird.govt.nz](https://ird.govt.nz) (search key words: social media).

## Working for Families

Do you have employees with families whose circumstances have changed recently?

They may now be eligible for Working for Families tax credit payments.

[ird.govt.nz/topics/working-for-families/can-i-get-working-for-families](https://ird.govt.nz/topics/working-for-families/can-i-get-working-for-families)

## Employee or contractor? It pays to get it right at the start

*(article supplied by MBIE)*

Are you thinking of taking on more staff, and trying to decide whether you need an employee or contractor? Take care. The initial appeal of a contractor may not be right in the eyes of the law and getting this wrong can be costly to you and your business.

Employment New Zealand have useful guidance to help you get it right and save you time and money.

### Employee vs contractor the differences

Hiring workers as either employees or contractors can be lawful providing that the correct type of working arrangement is used in each situation. Employees work for you, while contractors work for themselves.

Employment New Zealand have useful guidance to help you get it right and save you time and money. Go to [employment.govt.nz](https://employment.govt.nz) (search key words: Employment agreements) to find out more.

*(continued on next page)*

## How to decide – the legal tests

You need to know whether your worker is an employee or a contractor because your responsibilities as a business will be very different.

To make the correct decision focus on the real nature of the working relationship, not what you want to call them. The courts have developed some legal tests to help you tell the difference, they are the:

- **Intention test** (what the parties intended the relationship to be).
- **Control vs independence test** (the greater the control exercised over the worker the more likely they are an employee).
- **Integration test** (if the work performed by the worker is fundamental to the organisation they are more likely to be an employee).
- **Fundamental/economic reality test** (looking at the full circumstances of the work relationship to determine its economic reality).

## Consequences of getting it wrong

If you hire someone as a contractor when they are actually an employee, you may be liable for many costs. These potentially include unpaid PAYE, minimum wages, holidays and leave entitlements, penalties from Inland Revenue and/or penalties from the Employment Relations Authority, and being banned from bringing in workers from overseas. Also, you may get negative publicity that could harm your customer goodwill, reputation and potentially the value of your business.

## Employment laws

Most employment laws don't cover contractors in the same way as employees. Unlike employees, contractors: don't get minimum employment rights like annual holidays, sick leave and the minimum wage and much more, plus they can't bring personal grievances.

However, health and safety laws apply to both employees and contractors. Go to **employment.govt.nz** (search key words: Health and safety at work) to find out more.

For information about employment laws covering employees' rights go to **employment.govt.nz** (search key words: Minimum rights of employees ).

## Employment New Zealand can help you get it right

In many simple cases, a business can decide what is the correct status for a worker. We have simplified the main legal tests into handy questions for you. For more information go to **employment.govt.nz** (search keywords: Contractor versus employee).

Employment New Zealand also have the employment law database so you can search cases from the Employment Relations Authority, go to **employment.govt.nz** (search keywords: Employment law database).

For comprehensive information on your employment rights and responsibilities, visit the Employment New Zealand website: **employment.govt.nz**

## Wage subsidies and Employment Information

If you're an employer who has received the wage subsidy, get your deductions and Employment Information right from the start.

Wage subsidies should be passed onto the employee by the employer and processed as part of the employee's normal wages. All deductions (such as PAYE, KiwiSaver and child support) should be made as normal. The subsidy doesn't need to be accounted for separately when filing your Employment Information each payday. Include the subsidy and any employer-funded pay as 'total wages paid' for each employee.

Find out more about the subsidies at

**[ird.govt.nz/covid-19/business-and-organisations/employing-staff/wage-subsidies](https://ird.govt.nz/covid-19/business-and-organisations/employing-staff/wage-subsidies)**