

Follow-Up Questions – Manitou Conference:

1. T4a reporting of expense reimbursement
Regarding pulpit supply and expenses, I have heard of 2 ways in which this handled, which I believe would be passable with CRA:
 - if the church pays expenses based on receipts provided, then they don't include expense amounts in T4A reporting
 - if the church doesn't bother asking for receipts, then they report the total amount given to the minister in the T4A
2. Increased employer duty to categorize workers as employees versus independent contractors. Employer has always had this duty under Income Tax Act, but now it is also specifically mentioned in Bill 148 as a fairness issue. I offer a newspaper article and a Q&A from ONN. <http://www.hrreporter.com/columnist/hr-policies-practices/archive/2018/02/13/bill-148-more-than-just-changes-to-the-minimum-wage>

How does the ESA classify independent contractors vs. employees?

It is important for employers to examine whether the individuals they treat as independent contractors are properly classified. It is sometimes hard to know whether an individual is an independent contractor or an employee. This always requires a fact-specific analysis, but there are factors to consider:

What are independent contractors?

An independent contractor is someone who runs his or her own business and provides services to an organization or a business in exchange for money. The individual may be an independent contractor if some of the following are true:

- The individual owns and is responsible for some or all of the tools and equipment he or she uses to work
- The individual can make a profit and has a risk of losing money in the business
- The individual decides how or where the work is completed
- An organization or business can end the individual's contract for services, but cannot discipline the individual

What is an employee?

An employee performs work for an employer for wages. The individual may be an employee if some of these are true:

- The employer supervises the individual's work
- The employer trains the individual

- The employer can discipline the individual
- The employer decides the hours the individual works
- The employer decides what the individual does, how much he or she will be paid, and when the work must be completed
- The employer decides where the individual performs the work
- The employer provides the individual with tools, material and equipment to perform the work
- The individual cannot subcontract his or her work to someone else

What are the changes to the ESA about misclassifying employees as independent contractors?

There have always been repercussions for misclassifying an employee as an independent contractor, but the *Employment Standards Act* now:

- Specifically prohibits the misclassification of employees as independent contractors
- **Puts the onus on the employer** to prove that the individual is an independent contractor if their classification is in dispute
- Gives the Ministry of Labour the power to commence a prosecution against an employer, publication of a conviction, and monetary penalties if a person was misclassified

Remember: An individual can still be deemed to be an employee even if he or she:

- Agrees to be an independent contractor
- Charges HST
- Submits invoices
- Uses his or her own vehicle to carry out the work
- Doesn't have statutory deductions taken

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