



# Questionnaire for contractor payments

This questionnaire is designed to assist business operators when seeking professional advice about their contractor payments. It is recommended that you answer as many of the questions as possible and give the completed questionnaire to your professional adviser. Before completing the questionnaire it is recommended that you read *Revenue Circular PRT 007 – Employer/Employee Relationship*, which includes an addendum. If you do not have a copy, contact Territory Revenue Management (TRM) on telephone 1300 305 353 or visit our website [www.revenue.nt.gov.au](http://www.revenue.nt.gov.au).

Whether you seek professional advice or not, if you want TRM to examine your business' contractor arrangements and make a determination on whether any payments made to contractors are liable for pay-roll tax, you may send the completed questionnaire to TRM. If you do this, TRM will investigate the contractor arrangements which is likely to involve officers conducting further inquiries at your work premises. At the conclusion of the investigation, TRM will make a determination as to whether the contractor payments are liable for pay-roll tax and will confirm this in writing to you. If it is concluded that there is a liability for pay-roll tax, an assessment will be issued.

**Completed questionnaires received by TRM before 1 December 2004 will receive the benefit of the Commissioner's amnesty. For full details of the amnesty visit our website [www.revenue.nt.gov.au](http://www.revenue.nt.gov.au) or contact the contractor help line on (08)8999 5165.**

Where the following four combined elements are present, that is:

- (1) the worker is engaged directly or indirectly on an hourly or piecework rate;
- (2) the payment is wholly or principally for the labour of the worker;
- (3) the manner and sequence in which the work is performed is controlled by the business operator (or the business operator has the authority to do so); and
- (4) the worker performs the required services at the business operator's place of business (or a place specified by the business operator), TRM would generally be of the view that an employer/employee relationship was in existence and that payments to the contractor should be included in the business operator's pay-roll tax returns.

However, as all aspects of the relationship between the business operator and the worker are relevant, if these four elements are present, but you still consider that there may not be an employer/employee relationship, it is recommended that you seek professional advice or obtain a determination from TRM. For this purpose, you should complete as much of the questionnaire as possible.

If you engage all your contractors through a labour hire firm or an employment agency, it is not necessary to complete this questionnaire (see paragraphs 42-47 of *Revenue Circular PRT 007*).

## BUSINESS DETAILS

Business/trading name(s):	<input type="text"/>
Business address:	<input type="text"/>
	<input type="text"/> Postcode: <input type="text"/>
ABN	<input type="text"/>
Postal address:	<input type="text"/>
<i>(if the same as business address write "as above")</i>	<input type="text"/> Postcode: <input type="text"/>
Contact person:	<input type="text"/>
Telephone no:	<input type="text"/> Facsimile no: <input type="text"/>
Email address:	<input type="text"/>

## INTRODUCTION

- In this questionnaire, **Relevant Period** means the financial year ended 30 June 2003, year ended 30 June 2004 and the period July 2004 to 1 December 2004.
- The individuals (other than those individuals engaged by your business as employees) who performed services for your business during the Relevant Period, are referred to as **Workers** in this questionnaire.
- Some of the Workers may have performed services for your business as the result of an agreement or arrangement between your business and the Worker, and in those cases, the Worker himself/herself would usually be regarded by the parties as the contractor.
- Other Workers may have performed services for your business as the result of an agreement or arrangement between your business and another individual or entity (ie a company, partnership or trust), and in those cases, the other individual/entity rather than the actual Worker, would usually be regarded by the parties as the contractor.
- Your business may have engaged some Workers through an interposed entity (ie a company, partnership or trust) that has an agreement with your business and is also related to the Worker who performed the services for your business (for example, the Worker may have been a shareholder in the case of a company, a partner in the case of a partnership or a beneficiary in the case of a trust).

## GENERAL QUESTIONS

1. What industry or industries is your business engaged in?

2. Provide a brief description of your business.

3. (a) Approximately how many individuals engaged as employees worked for your business in:

(i) the year ended 30 June 2003?

(ii) the year ended 30 June 2004?

(ii) the period 1 July 2004 to 1 December 2004?

(b) Briefly describe the types of duties carried out by the employees during those years.

4. (a) Were any of the **Workers** who performed services for your business during the **Relevant Period** engaged:

(i) as individuals?

YES / NO

(ii) through the **Workers'** interposed company, partnership or trust?

YES / NO

(iii) through some other individual or entity? Please provide details.

YES / NO

(b) Please estimate approximately what percentage of the **Workers** in 4(a) were engaged:

(i) as individuals

 %

(ii) through the **Workers'** interposed company, partnership or trust?

 %

(iii) through some other individual or entity

 %

5 (a) Approximately how many **Workers** performed services for your business during:

(i) the year ended 30 June 2003?

(ii) the year ended 30 June 2004?

(ii) the period 1 July 2004 to 1 December 2004?

## GENERAL QUESTIONS - CONTINUED

(b) Describe the categories of **Workers** who performed services for your business during the **Relevant Period** (eg bricklayers, boilermakers, draftsmen, engineers).

(c) Briefly describe the types of services performed during the **Relevant Period** by the **Workers**.

6. (a) During the **Relevant Period** did the **Workers** need particular qualifications or skills to perform the services for your business?

YES / NO

(b) Briefly describe those qualifications and skills.

(c) Did any of your business' employees have those qualifications and skills?

YES / NO

(d) During the **Relevant Period** did any of your business' employees perform similar services to those performed by the **Workers**?

YES / NO

7. (a) Were any of the **Workers** who performed services for your business during the **Relevant Period**:

(i) previously engaged by your business as employees?

YES / NO

(ii) subsequently engaged by your business as employees?

YES / NO

(b) If so:

(i) approximately how many were previously engaged as employees?

(ii) approximately how many were subsequently engaged as employees?

(iii) did their duties change after they ceased/commenced to be employees and, if so, describe how they changed?

8. (a) During the **Relevant Period**, how did your business usually select contractors:

(i) by advertisement?

YES / NO

(ii) by tender?

YES / NO

(iii) by word of mouth?

YES / NO

(iv) other? Please provide details

YES / NO

(b) Please attach a sample advertisement, if applicable.

9. (a) During the **Relevant Period**, did any of the contractors enter into a written agreement with your business? Please attach a sample agreement, if applicable. If there were different types of agreements or the agreements changed in that period, provide a sample of each type of agreement.

YES / NO

(b) If no written agreement, did your business provide the contractors with a letter or other documentation setting out the terms of their engagement? Please provide a sample, if applicable.

YES / NO

## GENERAL QUESTIONS - CONTINUED

10. During the **Relevant Period** did your business pay or provide entitlements to:

- |                        |          |
|------------------------|----------|
| (a) annual leave       | YES / NO |
| (b) sick leave         | YES / NO |
| (c) long service leave | YES / NO |
- with respect to the **Workers**?

11. During the **Relevant Period**, did your business make superannuation contributions with respect to the **Workers**?

YES / NO

12. During the **Relevant Period**, were the **Workers** covered by your business' workers compensation insurance?

YES / NO

13. During the **Relevant Period**, were the contractors required to provide their own:

- |  |          |
|--|----------|
| (a) workers compensation insurance?                      | YES / NO |
| (b) private accident insurance?                          | YES / NO |
| (c) public liability insurance?                          | YES / NO |
| (d) any other type of insurance? Please provide details. | YES / NO |

14. (a) During the **Relevant Period**, did your business engage contractors:

- |                                    |          |
|------------------------------------|----------|
| (i) to produce a given result?     | YES / NO |
| (ii) for a specific period?        | YES / NO |
| (iii) for a specific project?      | YES / NO |
| (iv) on an ongoing basis?          | YES / NO |
| (v) other? Please provide details. | YES / NO |

(b) If you answered yes to anything in 14(a), please provide examples.

15. (a) During the **Relevant Period**, did your business have the right to dismiss or terminate the services of the **Workers**? If yes, in what circumstances and how much notice was required?

(b) Did the **Workers** have the right to cease providing their services? If so, in what circumstances and how much notice to your business was required?

## GIVEN RESULT

16. (a) During the **Relevant Period**, was the required result or outcome of the contract known at the start of the contract? YES / NO  
If yes, please provide examples.
- (b) Was the contract price known at the start of the contract? YES / NO  
If yes, please provide examples.
17. During the **Relevant Period**, were the payments made wholly or principally for the labour or services of the **Workers**? YES / NO

## PAYMENT

18. During the **Relevant Period** were the payments made to:
- (a) the **Workers**? YES / NO
  - (b) the **Workers'** interposed company, partnership or trust? YES / NO
  - (c) other individuals or entities? YES / NO
19. During the **Relevant Period** were the contractors paid:
- (a) on completion of a given result or specific work? YES / NO
  - (b) on achieving certain milestones? YES / NO
  - (c) a fixed fee? YES / NO
  - (d) a commission? YES / NO
  - (e) on an hourly, daily or other time based rate? YES / NO
  - (f) on piece work rates? YES / NO
  - (g) overtime or penalty rates? YES / NO
  - (h) a travel allowance? YES / NO
  - (i) a living away from home allowance? YES / NO
  - (j) a tool allowance? YES / NO
  - (k) bonuses or other incentives? YES / NO
  - (l) other? YES / NO

If you have answered yes to any of the above questions, please provide examples and details of the payments made.

## PAYMENT - CONTINUED

20. (a) During the **Relevant Period**, were the contractors required to submit invoices for payment for the work performed for your business? YES / NO

(b) If yes, how regularly were invoices submitted (eg weekly, monthly)?

Please attach a sample invoice for each different category of **Worker**.

21. (a) During the **Relevant Period**, did your business pay the contractors:

(i) by cheque? YES / NO

(ii) by direct deposit into the contractor's bank account? YES / NO

(iii) other? Please provide details. YES / NO

(b) How regularly were the contractors paid?

(c) Did your business deduct any amounts from the payments for:

(i) income tax? YES / NO

(ii) superannuation? YES / NO

(iii) any other deduction (eg social club, union dues, insurance)? YES / NO

Please provide details

22. (a) During the **Relevant Period**, were the **Workers** required to complete timesheets? YES / NO  
Please provide a sample timesheet for each different category of **Worker** (if applicable).

(b) Were timesheets used to calculate the payments due to the contractors? YES / NO

(c) If not, what records were used to calculate the amount of the payments due to the contractors?

## ATTENDANCE/REGULARITY

23. (a) During the **Relevant Period**, did the **Workers** work set days and times? YES / NO

(b) What days and hours were they usually required to work?

(c) Was their start and finish time each day recorded (eg with a time clock)?  
Please provide details.

YES / NO

24. During the **Relevant Period**, did the **Workers** have set breaks at lunch, mid-morning etc? Please provide details.

YES / NO

25. During the **Relevant Period**, if they would not be available to perform services for your business for any period, were the **Workers** required to:

(a) seek prior permission from your business (eg. submit a leave application form)?

YES / NO

(b) give prior notice to your business?

YES / NO

26. During the **Relevant Period**, did the **Workers** have access to your business' premises or other work site outside normal work hours and at weekends?

YES / NO

If so, please describe those arrangements (eg did they have keys to the premises?)

## CONTROL/DIRECTION

27. (a) During the **Relevant Period**, did your business actually control/direct on a day to day basis what jobs or tasks were performed by the **Workers**? Please provide details. YES / NO

(b) Who allocated the work on a day to day basis to the **Workers**?

(c) Did your business have the right or authority to control/direct what jobs or tasks were performed on a day to day basis by the **Workers** (even if your business did not actually exercise such right to control/direct)? Please provide details.

YES / NO

## CONTROL/DIRECTION - CONTINUED

(d) Was it entirely at the **Workers'** discretion as to what jobs or tasks they performed on a day to day basis? YES / NO

(e) Could the **Workers** refuse to undertake a particular job or task that they were qualified to perform? If yes, please provide examples of where this occurred. YES / NO

(f) What consequences followed if **Workers** refused a particular job or task? Would they have risked termination?

28. (a) During the **Relevant Period**, did your business actually control/direct the priority or sequence of work carried out by the **Workers**? Please provide details. YES / NO

(b) Did your business have the right or authority to control/direct the priority or sequence of work (even if your business did not actually exercise such right to control/direct)? Please provide details. YES / NO

(c) Was it entirely at the **Worker's** discretion as to the priority or sequence of work they carried out? YES / NO

29. (a) During the **Relevant Period**, did your business actually control/direct the manner in which the **Workers** carried out their jobs or tasks? Please provide details. YES / NO

(b) Did your business have the right or authority to control/direct the manner in which the **Workers** carried out their jobs or tasks (even if your business did not actually exercise such right to control/direct)? Please provide details. YES / NO

(c) Was it entirely at the **Workers** discretion as to the manner in which they performed the services? YES / NO

30. During the **Relevant Period**, did your business provide the **Workers** with any:

(a) induction course or training YES / NO

(b) manuals, written instructions or verbal instructions YES / NO

when they commenced working for your business? Please provide details.

## CONTROL/DIRECTION - CONTINUED

31. During the **Relevant Period**, were the **Workers** required to perform the services:

- (a) in the manner they had been trained by your business to carry out the tasks? YES / NO  
Please provide details.

- (b) in the manner specified by your business' manuals, written instructions or verbal instructions? Please provide details. YES / NO

32. (a) During the **Relevant Period** did your business actually control/direct the **Workers** in relation to any collateral or incidental matters (refer to paragraph 19 of the addendum to *Revenue Circular PRT 007*)? Please provide details. YES / NO

- (b) Did your business have the right or authority to control/direct the **Workers** in relation to any collateral or incidental matters (even if your business did not actually exercise such right to control/direct)? Please provide details. YES / NO

33. (a) During the **Relevant Period** were the **Workers** supervised? If so, by whom? YES / NO

- (b) Did your business have any systems or checks in place to ensure quality control in relation to the services performed by the **Workers**? Please provide details. YES / NO

- (c) Was the work performed by the **Workers** checked? If so, by whom? YES / NO

34. (a) During the **Relevant Period**, were the **Workers** required to report (verbally or in writing) to your business on their progress with their work? Please provide details. YES / NO

## CONTROL/DIRECTION - CONTINUED

(b) Were they required to attend meetings with your business' employees, other **Workers** or your business' clients to discuss:

- |       |                              |          |
|-------|------------------------------|----------|
| (i)   | the progress of their work?  | YES / NO |
| (ii)  | the priority of their tasks? | YES / NO |
| (iii) | the status of the project?   | YES / NO |
| (iv)  | planning for future work?    | YES / NO |
| (v)   | other issues?                | YES / NO |

Please provide details.

## INTEGRATION

35. (a) During the **Relevant Period**, could your business have operated without the services performed by the **Workers**? YES / NO

(b) Were these services ordinarily required in the course of your business? YES / NO

36. During the **Relevant Period**, did the **Workers** work:

(a) alone? YES / NO

(b) with one or more of your business' employees or other **Workers** (eg as part of a team)? YES / NO

Please provide details.

37. (a) During the **Relevant Period**, did the **Workers** assist in training or supervising any of your business' employees (including apprentices) or other **Workers**? YES / NO

Please provide details.

(b) Were the **Workers** involved in assessing the performance of your business' employees or other **Workers**? YES / NO

Please provide details.

38. During the **Relevant Period**, were the **Workers**:

(a) required to wear a name badge, clothing or any other item bearing your business' name or logo? Please provide details. YES / NO

## INTEGRATION - CONTINUED

- (b) supplied with business cards or stationery for your business or any other materials bearing your business' name or logo? YES / NO

Please provide details.

- (c) entitled or invited to participate in entertainment or social activities provided by your business (eg social club, Christmas function)? Please provide details. YES / NO

## INDEPENDENT BUSINESS

39. During the **Relevant Period**, did the **Workers** perform the majority of their work for your business at:

- (a) their own premises? YES / NO  
(b) your business' premises? YES / NO  
(c) a site (eg construction site) specified by your business? YES / NO

40. *This question is limited to those cases (if any), where the **Worker** performed services pursuant to an agreement between your business and the **Worker's** interposed company, partnership or trust.*

- (a) During the **Relevant Period** when engaging the company/partnership/trust, was a particular **Worker** identified as the person who would perform the services for your business? YES / NO  
(b) Was it a requirement that the **Worker** who would perform the services for your business, be approved by your business? YES / NO  
(c) If the identified **Worker** was not available, was it a requirement that the approval of your business had to be obtained for any replacement? YES / NO

41. (a) During the **Relevant Period**, could the **Workers** delegate work or tasks to:

- (i) an employee of your business? YES / NO  
(ii) another **Worker** engaged by your business? YES / NO  
(iii) any other person? YES / NO

(b) If so, please provide examples of where this occurred.

(c) Before delegating work or tasks to another person were they required to:

- (i) give prior notification to your business? YES / NO  
(ii) seek prior approval from your business? YES / NO

42. During the **Relevant Period** if a **Worker** was not available to complete their work in the time required by your business (eg due to holiday or illness):

- (a) was the contractor responsible for finding a replacement? YES / NO  
(b) would the contractor arrange for an employee of your business or another **Worker** to complete the work? YES / NO  
(c) would your business reallocate the work to an employee or another **Worker**? YES / NO

## INDEPENDENT BUSINESS - CONTINUED

43. (a) During the **Relevant Period** did your business anticipate that the **Workers** would work on a full time, or virtually full time, basis for your business for the period of the contract? YES / NO

(b) Were the **Workers** expected to be available to perform services for your business as and when required by your business during the period of the contract? YES / NO

(c) During the **Relevant Period** did your business require the **Workers** to work exclusively for your business during normal work hours for the period of the contract, or were they free to work for others?  
Please provide details.

44. During the **Relevant Period**, did the **Workers** work:

(a) on a full time or virtually full time basis for your business? YES / NO

(b) less than full time? Please estimate the average number of hours worked each week? YES / NO

(c) for other businesses during normal work hours? YES / NO / UNKNOWN

45. (a) During the **Relevant Period**, how long on average did the **Workers** work for your business:

(i) Less than 1 month? YES / NO

(ii) 1 – 3 months? YES / NO

(iii) 3 – 6 months? YES / NO

(iv) 6 – 12 months? YES / NO

(v) over 12 months? YES / NO

(b) Did they work for a continuous period? YES / NO

If not, please provide details.

46. Approximately how many of the **Workers** worked for your business throughout the **entire year** in:

(a) the year ended 30 June 2003?

(b) the year ended 30 June 2004?

(c) the period 1 July 2004 to 1 December 2004?

47. (a) During the **Relevant Period**, what types of materials were used by the **Workers**?

(b) Were the materials supplied by:

(i) your business? YES / NO

(ii) the **Workers**? YES / NO

(iii) the **Workers'** interposed company, partnership or trust? YES / NO

(iv) some other individual or entity? YES / NO

## INDEPENDENT BUSINESS - CONTINUED

Please provide details.

YES / NO

- (c) If yes, to (b)(ii) or (b)(iii) who paid for the materials? Did your business make any contribution towards the cost of the materials? Please provide details.

48. (a) During the **Relevant Period** what types of:

- (i) plant and equipment were used by the **Workers**?

- (ii) hand tools were used by the **Workers**?

(b) Were the plant, equipment or hand tools supplied by:

- |   |          |
|---|----------|
| (i) your business?  | YES / NO |
| (ii) the <b>Workers</b> ?   | YES / NO |
| (iii) the <b>Workers'</b> interposed company, partnership or trust? | YES / NO |
| (iv) some other individual or entity?                               | YES / NO |

Please provide details.

- (c) If yes to (b)(ii) or (iii), who paid for the plant, equipment or hand tools? Did your business make any contribution towards the cost of the plant, equipment or hand tools. (eg. pay a tool allowance). Please provide details.

49. During the **Relevant Period** did your business supply the **Workers** with:

- |                                  |          |
|----------------------------------|----------|
| (a) a vehicle?                   | YES / NO |
| (b) a uniform?                   | YES / NO |
| (c) a mobile phone?              | YES / NO |
| (d) a lap top computer?          | YES / NO |
| (e) safety clothes or footwear?  | YES / NO |
| (f) safety glasses?              | YES / NO |
| (g) other clothing or equipment? | YES / NO |

Please provide details.

## INDEPENDENT BUSINESS - CONTINUED

50. (a) During the **Relevant Period** did your business provide or pay for any training courses, seminars or education for the **Workers**? Please provide details. YES / NO

- (b) Did your business pay the contractors for the time the **Workers** spent on such training and education activities? Please provide details. YES / NO

51. During the **Relevant Period** did your business provide any of the following facilities or amenities for use by the **Workers**:

- (a) work space (eg office space, workshop)? YES / NO  
(b) office facilities such as telephone, computer or fax? YES / NO  
(c) stationery? YES / NO  
(d) lunch room facilities? YES / NO  
(e) parking? YES / NO  
(f) Other facilities or amenities? YES / NO

Please provide details.

52. *This question is limited to those cases (if any), where the **Worker** performed services pursuant to an agreement between your business and the **Worker's** interposed company, partnership or trust.*

- (a) During the **Relevant Period** did any company/partnership/trust supply more than one **Worker** to perform services for your business? YES / NO  
(b) Did any company/partnership/trust supply two or more **Workers** at the same time? YES / NO  
(c) Please name the companies/partnerships/trusts which supplied more than one **Worker**.

53. (a) During the **Relevant Period**, who was responsible for any mistakes and poor workmanship by the **Workers**? Please provide details.

- (b) What were the consequences if **Workers** made mistakes or failed to perform the services in a workmanlike manner? Who was required to rectify the work and at whose expense? Please provide details.

54. *This question is limited to those cases (if any), where the **Worker** performed the services pursuant to (1) an agreement between your business and the **Worker** directly or (2) an agreement between your business and the **Workers'** interposed company, partnership or trust.*

- (a) During the **Relevant Period**, in providing services for your business, did the **Workers** or their company/partnership/trust take a commercial risk i.e. were they put in a position where they could make a profit or a loss from the services performed? YES / NO / UNKNOWN

## INDEPENDENT BUSINESS - CONTINUED

Please provide details.

- (b) Did any of the **Workers** or their company/partnership/trust operate their own businesses, which were independent from your business? Please provide details. YES / NO / UNKNOWN

- (c) Did any of the **Workers** or their company/partnership/trust incur significant expenses in the operation of their own businesses? Please provide details. YES / NO / UNKNOWN

- (d) Did the businesses of the **Workers** or their company/partnership/trust generate goodwill in carrying out work for your business? Please provide details. YES / NO / UNKNOWN

- (e) Did the **Workers** or their company/partnership/trust advertise or offer their services to the general public? YES / NO / UNKNOWN

Please provide details.

55. (a) During the **Relevant Period**, were any of the **Workers** required to work away from home? YES / NO

(b) If yes:

- (i) please describe the arrangements that were made for their travel, accommodation and meals.

- (ii) who made those arrangements?

- (iii) who paid for the travel, accommodation and meals? Please provide details.





## OTHER INFORMATION - CONTINUED

If you want Territory Revenue Management to examine your business' contractor arrangements and make a determination on whether the payments to contractors are liable for pay-roll tax, it is recommended that you complete this questionnaire and the section below and send to:

Compliance Branch  
Territory Revenue Management  
GPO Box 154  
DARWIN NT 0801

## DECLARATION

I,

*(print full name of Authorised person)*

certify that the details contained herein are true and correct in every particular.

Signature *(Public officer/Authorised person)*

Date

## PRIVACY STATEMENT

The information requested in this form is required by Territory Revenue Management to determine your pay-roll tax liability. Any information you provide is on a voluntary basis. Failure to provide it may result in a formal notice of demand being issued for the information. The information contained in this form may be communicated to persons authorised under the *Pay-roll Tax Act* and *Taxation(Administration) Act*. You may review or correct any personal information provided, by contacting Territory Revenue Management.