

Because You Asked...

Cheryl Coulombe, OVMA Manager of Member Services

OVMA's phone lines are busier than ever with members calling and requesting information. If one member asks a question, surely there are others wondering the same thing. This regular feature is dedicated to sharing with our members the answers to some of the more common questions received by OVMA staff.

For all your member service inquiries, please call Cheryl Coulombe, Manager of Member Services at 1.800.670.1702, ext. 27 or write ccoulombe@ovma.org

Locum (Self-Employed) or Employee?

Member Inquiry:

Recently, OVMA's office has received numerous telephone calls from both veterinarians considering locum work and practices that have hired independent contractors. More often than not, the member's questions revolve around whether or not a worker is truly self-employed.

Member Services Response:

Chartered Accountant Astrid Lakats has generously provided OVMA with these guidelines for members to consider when determining a worker's employment status. According to Astrid, no single factor defines an employment relationship in all circumstances, however;

Revenue Canada will likely consider you to be self-employed (a.k.a., a locum) if you:

- Control the time, place and manner of performing your activities
- Supply your own equipment and tools, and assume the rental and maintenance costs
- Make a profit (i.e., production-based compensation) or incur a loss, and cover operating costs, and
- Integrate your client's activities into your own business activities.

Likewise, Revenue Canada will likely consider you an employee of a veterinary practice if your employer:

- Decides where, when, and how the work is to be done
- Establishes your working hours
- Determines your salary amount
- Supervises your activities, and
- Assesses the quality of your work.

One emerging trend is to give weight to the "stated intentions of the parties and the specific actions that support those intentions". The Tax Court of Canada has recognized the importance of "an unequivocal agreement between the parties as to the nature of their relationship".

In its audits, Canada Revenue Agency (CRA) typically asks for copies of any agreement between business owners and contractors detailing their business arrangement. Where a **written** contract clearly sets out the worker's intention to be considered an independent contractor and the actions of the parties are consistent with this contention, CRA and the courts have generally respected the agreement.

Where no contract exists, CRA looks at the above noted guidelines and makes their own determination. Specifically they look to see that locums or other independent contractors:

- Prepare regular invoices on their own letterhead, together with applicable GST charges.
- Own equipment, which they use in their business (a stethoscope counts).
- Purchase their own supplies and pay their own expenses.
- Are not included in the practice's benefit plan and don't receive holiday pay.
- Are not on the practice's letterhead, telephone or email listings.
- Don't carry practice business cards.
- Set their own hours and may be permitted to subcontract the work if applicable.
- Carry their own insurance for their own actions. (i.e., an individual veterinary liability policy which includes malpractice coverage).

Take Caution

OVMA members should be aware of CRA's employment status guidelines (the full document is available at <http://www.cra-arc.gc.ca/E/pub/tg/rc4110/README.html>) and should be prepared to defend their position if requested by the Canada Revenue Agency. If a worker is deemed to be an employee, the employer will be requested to pay both the employer's and employee's share of any contributions (CPP) and premiums (EI) owing, plus penalties and interest.

OVMA thanks Astrid Lakats for her help in gathering this information. Astrid Lakats holds a BSc in Zoology, an MBA and is a Chartered Accountant. For further information visit www.lakats.ca or call Astrid directly at 905.875.3936 or toll free at 1.877.440.6440.