

Returning to Work After Retirement

Do you ever consider returning to the public sector (client) to work for any length of term as an Employee or a Self-Employed Independent Contractor? Let's explore the advantages and disadvantages of becoming an employee again or taking on the role of a self-employed independent contractor.

Background

The question of whether a person is in a business relationship (self-employed independent contractor) or in an employee-employer relationship is not one that is always easy to answer. Legally, the difference between being an employee or contractor is based on the following criteria:

- Control - more control is generally exercised by an employer over an employee than by a client over a self-employed person;
- Chance of profit/risk of loss - self-employed persons usually have some degree of financial risk, and more opportunity for profit than employees;
- Integration - an employee's job will be an integral part of an employer's business, whereas the tasks performed by a self-employed person will likely be less integrated with the client's business; and,
- Tools and Equipment - self-employed persons are more likely to be supplying their own tools and equipment, as well as being responsible for their maintenance.

These topics are further explained in the CRA publication [RC4110 Employee or self-employed](#).

So as a short-term employee returning to work in the public sector you have the following advantages:

- You qualify for employment insurance;
- Half of the Canada Pension Plan premiums are paid by the client;
- You get workplace insurance compensation coverage;
- You receive a payslip providing deductions for EI and Income Tax;
- You are provided with a T4 Slip in February;
- You may receive higher pay for overtime work performed; and,
- You may receive severance pay if terminated.

What limitations or disadvantages you encounter as a short-term employee are:

- You will not receive employee benefits that may include:
 - Vacation pay
 - Ontario provincial health care plan
 - Extended health care benefits – medical, dental, prescription, vision care;
 - Disability insurance; and,
 - Pension Plan

- You will pay Employment Insurance premiums ([EI premium rates](#));
- You will have very few expenses that are tax-deductible; and,
- You will have less control over working conditions and hours.

If you want to return to work as a self-employed independent contractor you have the following advantages:

- You pay no employment insurance premiums (unless you choose to voluntarily pay);
- You get to deduct more expenses to lower your tax – for example the expense of travelling to and from the client's work place is tax-deductible;
- You have more freedom to choose your own working hours;
- You can work for more than one client;
- In your first year of operation income tax is not payable until April 30th the following year;
- You have an opportunity for increased profits; and,
- You can recover HST paid by registering to collect HST.

But being a self-employed independent contractor has disadvantages:

- You get no severance pay if you are terminated;
- You cannot collect employment insurance unless you paid premiums;
- You must pay employee and employer portions of your Canada Pension Plan contributions ([CPP contribution rates](#));
- You must be prepared to keep detailed records;
- You may often work longer hours for no extra pay premium;
- You may have to pay for work equipment and for its maintenance;
- You have a risk of loss for early termination;
- You may become liable if your contract obligations are not fulfilled which in turn may force you to purchase expensive liability insurance coverage;
- You will receive no employee benefits, including disability insurance (so there is another cost you need to cover, disability insurance);
- You will have to register to obtain a business number to collect Ontario PST;
- You will need to require cash management and planning to ensure you have funds available to pay tax remittances (both Income Tax and HST); and,
- You may require the services of a bookkeeper or accountant for the record keeping and government reporting that is entailed.

As a self-employed contractor you can demand more remuneration for your services because you will not receive pay for overtime, for any vacation taken, for any sick leave taken, you are not contributing to your pension nor receiving any company contributions, you are paying both the employer and employee contributions to the Canada Pension Plan, you may want to pay for additional disability insurance, you may have to pay for any safety related equipment required to perform your duties and you may need to pay for a higher level of automobile insurance coverage. You may also wish to set up a corporation, so there are costs associated with government and lawyer fees to work from within a business corporation.

Loss of Public Service Pension

As a term employee there is one further issue you may encounter – loss of your public service pension.

If you become re-employed in the federal government, you may continue to receive your public service pension while receiving a salary. Your pension will not be affected, as long as you do not become an active plan member of the pension plan. However, if you accept a term employment of more than 6 months, an indeterminate position, or if your employment extends over 6 months, you would then become an active member of the pension plan and your monthly pension payments would be suspended.

Your indexing would stop accumulating and when you leave the government the second time, the indexing would be calculated from your new termination date and you would lose any indexing accumulated previously.

If you were receiving an annual allowance before becoming an active plan member, when you terminate employment again, your pension would be further reduced to take into account the time you have received the annual allowance. If you had qualified for a waiver of that early retirement reduction, you would not be entitled to a waiver of the reduction again unless you qualify once more at the time you terminate employment.

You would no longer be a participant to the Public Service Health Care Plan as a retired member but as an employee. As well, your coverage under the Pensioners' Dental Services Plan (if you ever had it) would cease since you would be a participant to the Public Service Dental Care Plan offered to employees.

Changes were made to the public service pension plan for employees who became plan members on or after January 1, 2013. Your pension benefit entitlement under the pension plan when you left the public service will determine whether you fall under the pre-2013 plan terms or the post-2013 plan terms when you become re-employed as an active member.

Generally, plan members who are entitled to receive an immediate annuity, deferred annuity or an annual allowance under the pre-2013 plan terms who become re-employed in the federal public service on or after January 1, 2013, will continue to be covered under the pre-2013 plan terms. For example, when terminating employment again, the plan member would be eligible to receive an unreduced pension at age 60, with at least two years of pensionable service, or at age 55 with 30 years of pensionable service.

However, there are three situations where a plan member who becomes re-employed in the federal public service will be covered under the post-2013 plan terms. This would apply to any plan member who left the public service and become re-employed in the public service on or after January 1, 2013:

- with less than two years of pensionable service and has received a return of contribution; or
- has received a transfer value; or
- has transferred pensionable service accumulated under the public service pension plan to a new employer's pension plan under general portability rules or a Pension Transfer Agreement.

There are other consequences to becoming an active plan member of the public service pension plan while you are receiving a pension. You should contact the Government of Canada Pension Centre before accepting employment in the federal public service.

You can also visit the [Pension and benefits](#) web portal to learn more about how your pension may be affected by re-employment.

Conclusion

So what is it to be: employee or self-employed contractor? As a term employee, your public sector employer looks after you well. There is no real accounting for you to perform, you get income tax deducted at source and you get paid with a regularity that you remembered from pre-employment years. However you must manage the risk to your pension.

If you wish to return to work as a self-employed independent contractor, you take on the added chore of keeping detailed track of your earnings and expenses, you are forced to interact with the Canada Revenue Agency, but for your additional efforts you are entitled to more remuneration.

Ultimately you have to decide how you want to be paid if you are approached to work again in the public sector.