

Independent Contractors

Activity	UI	Min. Wage	WC
Specific exclusion from unemployment compensation as outlined in general IC definition (specific cite - ORS 657.040)	X		
Sole proprietor who qualifies as independent contractor (ORS 656.027)			X
Engaged in administrative/executive/professional work who performs predominantly administrative, executive, or professional work who exercises discretion/independent judgment, earns salary and paid on salary basis (ORS 653.020)		X	

NOTE: The following statute is applicable to taxation, unemployment insurance tax, and licensure by the Construction Contractors Board and Landscape Contractors Board.

670.600 Independent contractor defined. (1) As used in this section:

- (a) "Individual" means a natural person.
- (b) "Person" has the meaning given that term in ORS 174.100.
- (c) "Services" means labor or services.

(2) As used in ORS chapters 316, 656, 657, 671 and 701, "independent contractor" means a person who provides services for remuneration and who, in the provision of the services:

- (a) Is free from direction and control over the means and manner of providing the services, subject only to the right of the person for whom the services are provided to specify the desired results;
- (b) Except as provided in subsection (4) of this section, is customarily engaged in an independently established business;
- (c) Is licensed under ORS chapter 671 or 701 if the person provides services for which a license is required under ORS chapter 671 or 701; and
- (d) Is responsible for obtaining other licenses or certificates necessary to provide the services.

(3) For purposes of subsection (2)(b) of this section, a person is considered to be customarily engaged in an independently established business if any three of the following requirements are met:

- (a) The person maintains a business location:
 - (A) That is separate from the business or work location of the person for whom the services are provided; or
 - (B) That is in a portion of the person's residence and that portion is used primarily for the business.
- (b) The person bears the risk of loss related to the business or the provision of services as shown by factors such as:
 - (A) The person enters into fixed-price contracts;
 - (B) The person is required to correct defective work;
 - (C) The person warrants the services provided; or
 - (D) The person negotiates indemnification agreements or purchases liability insurance, performance bonds or errors and omissions insurance.
- (c) The person provides contracted services for two or more different persons within a 12-month period, or the person routinely engages in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.

(d) The person makes a significant investment in the business, through means such as:

- (A) Purchasing tools or equipment necessary to provide the services;
- (B) Paying for the premises or facilities where the services are provided; or
- (C) Paying for licenses, certificates or specialized training required to provide the services.

(e) The person has the authority to hire other persons to provide or to assist in providing the services and has the authority to fire those persons.

(4) Subsection (2)(b) of this section does not apply if the person files a Schedule F as part of an income tax return and the person provides farm labor or farm services that are reportable on Schedule C of an income tax return.

(5) For purposes of determining whether an individual provides services as an independent contractor:

(a) The creation or use of a business entity, such as a corporation or a limited liability company, by an individual for the purpose of providing services does not, by itself, establish that the individual provides services as an independent contractor.

(b) When the individual provides services through a business entity, such as a corporation or a limited liability company, the provisions in subsection (2), (3) or (4) of this section may be satisfied by the individual or the business entity. [Formerly 701.025; 1997 c.398 §2; 1999 c.402 §9; 2003 c.704 §5; 2005 c.533 §§1,2]

Activity	UI	Min. Wage	WC
Person paid for specified hours of employment, the only purpose of which is to be available for recall to duty (ORS 653.020)		X	
Seasonal employees at organized for-profit camp with gross annual income of less than \$500,000 or non-profit organized camp (ORS 653.020)		X	
Person working at nonprofit conference ground/center operated for educational, charitable, religious purposes (ORS 653.020)		X	
Volunteer firefighters (ORS 653.020)		X	
Assistant at mobile home or manufactured dwelling park for temporary/permanent lodging or multiunit accommodations (ORS 653.020) ¹		X	
Campground host ORS (653.020) ²		X	
Domiciled at place of employment for purpose of being available for emergency/occasional duties (ORS 653.020) ³		X	
Federal employees (ORS 653.020)		X	
Gardening, maintenance, repair, remodeling, similar work in private home (ORS 656.027)			X
Casual employee; work within 30-day period for total labor cost of less than \$500 (ORS 656.027)			X
Person for whom rule of liability for injury or death arising out of and in the course of employment is provided by federal laws (ORS 656.027)			X
Transporting interstate commerce of goods, persons or property by rail, water, aircraft or motor vehicle; employer has no fixed place of business in Oregon (ORS 656.027)			X
Portland firefighter/police employees (ORS 656.027)			X
Partners and LLC members/managers not engaged in work performed in direct connection with construction, alteration, repair, improvement, moving or demolition of an improvement on real property or appurtenances (ORS 656.027)			X
Sole proprietors (ORS 656.027) ⁴			X
LLC members/managers (ORS 656.027) ⁵			X
Persons performing services primarily for board/lodging – religious, charitable, relief organization (ORS 656.027)			X
Amateur athletes (U.S. Olympic or Canadian Olympic Committees), certified amateur sports official which requires liability and accident insurance (ORS 656.027) ⁶			X
Volunteers participating in ACTION program (ORS 656.027)			X
Ski patrol volunteers (Chapter 32, 2008 Oregon Laws) ⁷	X	X	X
Volunteer – nonprofit, religious, charitable, relief organization (ORS 656.027) ⁸			X
Property tax work-off program (ORS 656.027)			X
Landscape contractors and construction contractors (ORS 656.027) ⁹			X
Referees and assistant referees (ORS 656.027) ¹⁰			X
Taxi cab and non-emergency medical transport drivers (WC - ORS 656.027, Wage/Hour - ORS 653.020) ¹¹		X	X
Students and patients (UI - ORS 657.030, Wage/Hour – ORS 653.020) ¹²	X		X

Activity	UI	Min. Wage	WC
Independent contractors (UI - ORS 657.040, WC - ORS 656.027, Wage/Hour - ORS 653.020) (NOTE: see separate sheet for specific exemptions)	X	X	X
Golf caddies (UI - ORS 657.043, WC - ORS 656.027, Wage/Hour - ORS 653.020) ¹³	X	X	X
Service by partners, corporate officers, directors who are family members (UI - ORS 657.044, Wage/Hour - ORS 653.020) ¹⁴	X		
Agricultural labor (UI - ORS 657.045, Wage/House) (NOTE: see separate sheet for specific exemptions)	X	X	
Transportation of logs, poles and piling; transportation of rocks gravel, sand, dirt, or asphalt; person who leases equipment to for-hire carrier (UI - ORS 657.047, WC - ORS 656.027) ¹⁵	X		X
Language translators and interpreters (UI - ORS 657.048, WC - ORS 656.027) ¹⁶	X		X
Domestic service, child care service, certain services of employer's trade (UI - ORS 657.050, WC - ORS 656.027, Wage/Hour - ORS 653.020) ¹⁷	X	X	X
Fishing boats (ORS 657.053) ¹⁸	X		
Maritime service (ORS 657.056) ¹⁹	X		
Family service/foster care (UI - ORS 657.060, WC - ORS 656.027, Wage/Hour - ORS 653.020) ²⁰	X	X	X
Governmental service (ORS 657.065) ²¹	X		
Community work and training programs (ORS 657.067) ²²	X		
Services performed for a nonprofit by individual receiving rehabilitation/remunerative work (ORS 657.072) ²³	X		
Services performed under Railroad Unemployment Insurance Act (ORS 657.075)	X		
Print/broadcast stringer/correspondent/photographer (ORS 657.078) ²⁴	X		
News delivery service (UI - ORS 657.080, WC - ORS 656.027) ²⁵	X		X
Newspaper advertising salesperson, real estate broker, principal real estate broker, insurance producer or securities salesperson or agent (ORS 657.085) ²⁶	X		
Solicitors of home improvements and consumer sales (ORS 657.087) ²⁷	X		
Down-river boating activities (UI - ORS 657.094, WC - ORS 656.027) ²⁸	X		X
Food demonstrator (ORS 657.091) ²⁹	X		
Individual/partnership in wholesale distribution of petroleum products (ORS 657.090) ³⁰	X		
Nonprofit organization employees/contestants (ORS 657.092) ³¹	X		

¹ Duties - maintenance, management or in assisting in the management.

² Resides in campground owned by public agency.

³ When performing emergency/occasional duties, must be paid at least Oregon minimum wage.

⁴ Unless licensed as landscape contractor or construction contractor. Also must qualify as independent contractor.

- ⁵ Regardless of nature of work performed, unless engaged in work performed in direct connection with construction, alteration, repair, improvement, moving or demolition of an improvement on real property or appurtenances.
- ⁶ Olympic athletes must receive no remuneration for performance of services as athlete other than board, room, rent, housing, lodging or other reasonable incidental subsistence allowance.
- ⁷ UI - Must receive no wage other than noncash remuneration. Wage/Hour – registered as nonprofessional ski patroller and receives no wage other than passes for performing services related to preserving safety or organizing or conducting skiing or snowboarding races. WC – receives no wage other than ski passes or other noncash remuneration for performing volunteer ski patrol or ski area program activities.
- ⁸ Whether or not such person receives meals or lodging or nominal reimbursements or vouchers for meals, lodging or expenses.
- ⁹ Corporate officers, LLC members, partners, sole proprietors.
- ¹⁰ For youth or adult recreational soccer match whose services are retained on match-by-match basis.
- ¹¹ Wage/Hour – also applies to outside sales persons.
- ¹² Student enrolled full-time at their school/college/university and working for their institution or on work experience program; patients at hospitals; student nurses employed by hospital/training school; full-time students working at certain types of organized camps (Wage/Hour – just students employed at a primary or secondary education institution where the individual is enrolled).
- ¹³ Must be in an established training program under the direction of a person who is an employee of the golf course (UI only - does not apply to services performed for nonprofit, state/local government, or Indian tribe).
- ¹⁴ Corporate officers (must have substantial ownership interest and members of the same family if corporation chooses to not provide coverage), LLC members/managers, LLP partners (does not apply to services performed for nonprofit, state/local government, or Indian tribe). For Wage/Hour only – only for corporate officers who are directors and have substantial ownership interest regardless of the nature of the work, subject to certain limitations.
- ¹⁵ UI only includes person who has ownership or lease on vehicle used for transportation of logs, poles or piling, or person who leases equipment to for-hire carrier.
- ¹⁶ Services must be provided through agent/broker; (UI only – does not apply to services performed for nonprofit, state/local government, or Indian tribe).
- ¹⁷ Domestic service performed in private home, local college club or local chapter of college fraternity/sorority with cash remuneration is less than \$1,000 in calendar quarter in current calendar year or preceding calendar year; child care service provided through DHS to individual who is receiving public assistance; service not in the course of employer's trade or business/does not promote or advance the trade or business of the employer if performed in less than 18 weeks in a calendar year or total payroll for the service is less than \$1,000 during any calendar quarter; child care service provided in the home of the child care provider by the provider (child care provisions do not apply to services performed for nonprofit, state/local government, or Indian tribe) WC only – any worker engaged in household domestic service by private employment contract. Wage/hour only – must be employed on casual basis in or about family home or providing companionship services for individuals who are unable to care for themselves due to age/infirmity).
- ¹⁸ Under an arrangement with boat owner/operator of the boat when, under the arrangement: individual does not receive any cash remuneration other than share of the boat's catch of fish or a share of the proceeds from the sale of that catch, any cash remuneration does not exceed \$100, and amount of individual's share depends on amount of the boat's catch of fish, but only if boat's operating crew/or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat, normally made up of fewer than 10 individuals.
- ¹⁹ Services performed as officer/member of the crew of non-American vessel; performed by a non-U.S. citizen on/in connection with American vessel under contract of service which is not entered into within U.S. and during the performance of which the vessel does not touch U.S. port.
- ²⁰ Service performed by a person in the employ of a son, daughter, or spouse, service performed by child under the age of 18 in the employ of the father or mother, service performed as foster care parents certified by DHS/approved by a licensed child caring facility (WC - also includes adult foster care providers; Wage/Hour – adult foster care only).
- ²¹ Generally, services that are performed in state/local government or an Indian tribe: elected public official; position designated as policymaking/advisory position and performing duties ordinarily does not require more than eight hours per week; temporary employee in case of fire, storm, earthquake, flood or similar

emergency; judge or legislator; inmate when services are performed in the institution in which the inmate is confined; member of the Oregon Army National Guard or Oregon Air National Guard (does not apply to services performed as an elected public or tribal official).

²² Either state-based community work and training program, certain types of unemployment work-relief or work-training programs, federal Work Incentive Program, and AmeriCorps (exclusions do not apply to those participating in program that requires UI coverage to be provided)

²³ Individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market.

²⁴ Individual is free from direction/control over means/manner of providing the services; does not apply to services performed for nonprofit employing unit for this state, state/local government, or an Indian tribe.

²⁵ Delivery/distribution of newspapers/shopping news, not including delivery or distribution to any point for subsequent delivery or distribution and remuneration primarily consists of difference between amount individual pays/is obligated to pay for newspapers and amount received/is entitled to receive on distribution or resale (WC – must be at least 19 years old under contract with newspaper publisher or independent newspaper dealer/contractor).

²⁶ Person must be compensated by commission.

²⁷ Soliciting contracts for home improvements including roofing, siding and alterations of private homes to the extent that remuneration consists of commissions, or share of the profit realized on each contract; or compensation consists of commissions, overrides or a share of the profit realized on orders solicited or sales resulting from in-person solicitation of orders for and making sales of consumer goods in the home.

²⁸ Individual in connection with the transportation of the public for recreational down-river boating activities on the waters of this state pursuant to a federal permit when the person furnishes the equipment necessary for the activity.

²⁹ Cannot be directly employed by food manufacturer.

³⁰ If remuneration for such service primarily consists of difference between amount the individual/partnership pays or is obligated to pay for the petroleum products and amount individual/partnership receives or is entitled to receive from the sale, or remuneration primarily consists of commissions.

³¹ Director, designer, performer, musician, technical crew member, house or business person, contestant, beauty queen or member of a court for or on behalf of a nonprofit organization in connection with a symphony, opera, play, pageant, festival, rodeo or similar event operated by such organization when the remuneration for such service consists solely of a gratuity, prize, scholarship or reimbursement of expenses.