

The ESSEX FREE PRESS BUSINESS

Small Business 101

Employment Insurance: Are you paying too much?

Each year, employers and employees are required to pay sizeable Employment Insurance (EI) premiums. Many are unaware that under certain conditions contributions should not be paid, and the employee on whose behalf they are submitted cannot claim EI benefits. Often, this issue does not come to light until an employee tries to claim EI from HRSDC (Human Resources and Social Development) due to job termination or family leave.

Conditions of Eligibility

Employment Insurance claims are most often refused when employees are considered to have a non-arm's length relationship with their employer. In such cases, the number of years paid into EI is not relevant. In general, the Canada

Revenue Agency (CRA) does not consider these jobs insurable due to the non-arm's length relationship that exists, whether through blood (e.g., son), marriage (including common-law) or adoption. Where CRA believes the employer and employee have a job contract similar to one that would apply to an unrelated employee, they are considered to work at arm's length. In such a case, EI premiums must be paid.

There are two scenarios in which premiums should not be paid, since the job is not considered "insurable":

1. Where the employee controls over 40% of the corporation's shares,

2. Where the employee is treated differently because he or she is a relative (non-arm's length relationship).

HRSDC refers most often

to the second scenario when refusing an individual's claim for EI benefits. However, this criterion is applied on a case-by-case basis rather than systematically. The conditions of its application are not always easy to verify. Please note that while HRSDC pays or refuses to pay EI benefits, only CRA has the authority to rule on a person's eligibility.

Procedure

You may find the following information helpful in understanding the reasoning CRA uses when making its decisions.

Ask yourself: Could the job in question, where all the conditions of employment remain the same, be done by anyone other than the relative? If the answer is, "yes", the employment is

likely insurable; a job created with a relative in mind is likely not.

The following circumstances are useful indicators of uninsurable employment:

- The employee's work schedule is flexible (the employee is free to organize his or her own work time),
- The employee receives the same salary, regardless of the number of hours worked,
- The salary is paid only once a year,
- The salary is not determined before the employee fills the position,
- The employee is part of a preferential benefits plan,
- The position is created exclusively for the benefit of a relative,
- The employer exercises no control over the employee,
- The employee works from his or her home,

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- The work is organized around child care or other personal needs,
- The employee receives a salary plus bonuses,
- The employee enjoys additional vacation time,
- The employee has signing authority on business bank accounts.

This list is not exhaustive. A positive answer to any one of the above does not mean an employee cannot get EI benefits. It does, however, give a good indication of the criteria used by CRA when making its determination.

There are steps you can take if you believe that you and a close relative have been needlessly contributing to Employment

Insurance. Note that within a certain time frame, and once the employee has been ruled uninsurable, you can request a refund. Contributions for up to three years plus the current year can be obtained. You will not be penalized by CRA for making an application.

(The above procedural information is largely based on the document, "Taxing Issues: Unemployment Insurance—Are your relatives paying too much?" by Tracey Jennings, C.A.)

Small Business 101 is an information service provided by the Canadian Federation of Independent Business. It is not intended to replace legal and/or accounting advice.

Stars in your eyes? Keep your feet on the ground!

(NC)—Ontario's Consumer Protection Branch is cautioning young people and their parents about talent and modelling agencies.

"It's hard to resist flattery," admits Branch Director Chris Ferguson. "However, some agencies are just trying to sell you an expensive course or photographic portfolio." According to

Ferguson, many young people are fooled into paying many dollars for little or nothing in return, dazzled by dreams of stardom.

Respected agency professionals offer these tips to avoid being cheated:

- Reputable talent agencies do not approach people on campus or hand out leaflets.

- Never rush to sign up and beware of high-pressure tactics.

- Avoid anyone who "guarantees" work if you sign up. Jobs can't be guaranteed.

- Never pay advance fees. Reputable agents are paid after you start making money.

Putting together a model-

ling portfolio is expensive – about \$400 - \$500 on average per shoot. A variety of photographs of the model in different clothing and styles is required. Three or four shoots with different photographers are often needed to put together a complete beginner's portfolio.

To find out more about choosing an agent, call the

Acting and Modeling Information Service (AMIS) hotline at (416) 977-3832 or visit www.amisontario.com. AMIS provides a free telephone listing of agents who are willing to take on new

clients. For more information about your rights under the Consumer Protection Act, visit www.ontario.ca/consumer-protection or call toll-free 1-866-351-5655.

Buying clubs: Consumers urged to check "discount price" claims closely

(NC)—Ontario's Consumer Protection Branch is noting a growing interest in "buying clubs" that promise to use members' collective purchasing power to get low prices on goods and services. As with any club membership, Ontario's Consumer Protection Branch advises consumers to shop smart and avoid trouble.

Buying club members pay an upfront fee for the right to buy goods or services through the club. These clubs claim to save members money, and, in some cases, they do. However, members may also find themselves committed to spending thousands of dollars more than they ever intended – or can afford.

"If the deal is good today,

it will be good tomorrow," notes Ray Kovarik of Ontario's Consumer Protection Branch. "Don't rush into any membership. Do your homework first." There is no cooling-off period for buying club memberships, and consumers can quickly find themselves locked into an expensive deal.

Kovarik urges consumers to look closely at membership fees. "A large fee means you'll have to make many discounted purchases before you save any money." It is also important to check "discount prices" carefully because insurance, shipping and handling charges may, in fact, wipe out any savings from regular retail. Don't trust any

club that won't let you check prices in its catalogue before you join.

"A club's claim that members get savings off the suggested retail price doesn't mean membership is a good deal," adds Kovarik. "Most local discount retailers routinely sell for less than the suggested retail price, and you don't have to pay a membership fee to shop from them." He suggests that consumers check a buy-

ing club's reputation with the local Better Business Bureau and on Ontario's Consumer Beware List.

For more information on shopping smart and your rights under the Consumer Protection Act, visit www.ontario.ca/consumer-protection.ca – where you will also find a link to the Consumer Beware List – or call toll-free 1-866-351-5655.



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