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Types of Employment Policy

Effective: July 1, 2004
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Executive Summary

There are three categories of individuals who provide services to the Commonwealth of Massachusetts:

1. State Employees

Individuals appointed or elected to state positions that contribute to the State Retirement System and are eligible to participate in the Group Insurance Programs. State employees have an employee-employer relationship with the Commonwealth. These individuals are paid through the payroll system, have tax withholding and other deductions. State employees include regular positions, intermittent positions, seasonal positions, excess quota positions and commission/board member positions. These positions are scheduled through the Human Resources Division for Executive Departments and the applicable Human Resources Office in the Non-Executive Departments.

2. Contract Employees

Individuals who do not occupy state positions, nor contribute to the State Retirement System or group insurance programs, but who must contribute to the Alternate Retirement System. Contract employees have employee-employer relationships pursuant to individual contracts with the Commonwealth. These individuals are paid through the payroll system, have tax withholding and other deductions.

3. Independent Contractors

Individuals who do not occupy state positions nor contribute to the State Retirement System or Alternate Retirement System. Independent contractors do not have an employee-employer relationship pursuant to individual contracts with the Commonwealth. These individuals are paid through the accounting system with no tax withholding or other deductions.

Considerations

This policy applies to all Commonwealth Branches and Departments.

Policy

It is the responsibility of every Department to:

- **PRIOR TO HIRING ANY INDIVIDUAL CONTRACTOR**, determine whether or not the job responsibilities anticipated for that individual will create an employee-employer relationship (contract employee) or an independent contractor. Departments are required to comply with the policy Contract Employees vs. Independent Contractors and complete the Employment Status Form when hiring any Individual Contractor.
- The Immigration Reform and Control Act of 1986 (IRCA) makes it illegal for an employer to hire an unauthorized worker. Employers must comply with this requirement by verifying the

identity and right to work of all employees hired after November 6, 1986. Prior to hiring any individual, employers can protect themselves by obtaining proof of the right to work in the U.S. This proof of right to work is known as Form I-9, Employment Eligibility Verification. This form is available at: https://www.uscis.gov/i-9

- Check the Social Security Number. Make sure the name matches Social Security Administration records. Correct names and social security numbers (SSN) on W-2 wage reports are the keys to successful processing of the Commonwealth's annual wage report submission. Not only can the Commonwealth be subject to penalties when employee names and SSNs don't match Social Security Administration records, but also unmatched wage reports can cause earnings that are not posted to your employees' records. To verify the name and SSN match, call the SSA toll-free number for employers - 1-800-772-6270 provide Social Security Number, Date of Birth and Gender. **The Commonwealth EIN is 04-6002284**.

  Always double check to make sure you have entered the SSN correctly into the payroll system.

- Upon hiring or rehiring an individual verify Medicare Status. For Rehires verify that a 'break in service' has not occurred, refer to the CTR Medicare Tax Policy. Validate Income and Medicare taxes are appropriately withheld from wages paid to both state employees and contract employees, in amounts determined by the employees' withholding certificates and governmental withholding tax tables.

Records Management - Payroll Documentation

The following list includes some examples of the types of documentation to be retained for payroll and human resource (HR) purposes. Departments are required to keep all human resource (HR) and payroll related documentation confidential and in a secured location accessible only to personnel required to enter HR or payroll related transactions and adjustments.

- Time and attendance records signed by employee and supervisor, including hours worked and leave taken;
- Posting to cumulative records;
- Signed contracts describing scope of services and rate to be paid to contract employees;
- Proper allocation or distribution of employees' time and cost to applicable department;
- Hiring letters or appointment documentation;
- Payroll certifications; and approvals where necessary;
- Forms W-4 and other documentation related to tax deductions;
- Voluntary and Involuntary payroll deduction or garnishment forms, including direct deposit, deferred compensation programs, Dependent Care Assistance forms, Insurance forms and changes, reimbursement requests;
- Back up documentation related to payroll activities, changes or adjustments;
- Employment claims, grievances, law suites and resolution documentation;
- Performance reviews; and
- Any other documentation related to employment

Internal Controls

- Internal Control Guide
- Job Aid: Best Practices For Payroll

Information Sources

- Key State Finance Law Compliance Appointments and Responsibilities
- Department Head Signature Authorization and Electronic Signatures for Mosaic Documents
- Contract Employees vs. Independent Contractors
- CTR Payroll and Labor Cost Management Policies
- Employment Status Form
- CTR Contracts Policies
- CTR Payments Policies
- CTR Fiscal Records Management Policy
- OSD rocurement Information Center (PIC)

Legal Authority

- Expenditure Classification Handbook
- M.G.L. c. 7A: Office of the Comptroller
- M.G.L. c. 29: State Finance Law
- M.G.L. c. 30 § 65: Legal Services
- M.G.L. c. 7 § 22: OSD – Commodities
- M.G.L. c. 30 § 51: OSD – Services
- M.G.L. c. 30 § 52: OSD – Services
- M.G.L. c. 29 § 29A: Consultants (Level III – Executive only)
- M.G.L. c. 149 § 148B: Contract Employees vs. Independent Contractors
- M.G.L. c. 149 § 148: Payment of Wages
- M.G.L. c. 149
- M.G.L. c. 150E § 1: Labor Relations Public Employees
- M.G.L. c. 149-154: Labor and Industries Statues
- Massachusetts Executive Orders (Level III – Executive Only)
- Administrative Bulletins (Level III – Executive Only)
- 815 CMR 2.00 - 10.00: Office of the Comptroller Regulations
- M.G.L. c. 29 § 66: State Finance Law Violations
- COMMBUYS
- COMMBUYS Policies
- 801 CMR 21.00
- 808 CMR 1.00
- Omnibus Budget Reconciliation Act of 1990
- Federal Insurance Contributions Act (FICA)

Links

- http://www.irs.gov/formspubs/

- http://uscis.gov/graphics/formsfee/forms/i-9.htm

Contacts

- CTR Solution Desk