



**Contractor's questionnaire for a Private Company/Close Corporation/Trust or other legal entity**

1. Your name:
2. Which of the following do you provide to the <b>University of Cape Town (UCT)</b> ? 1.1. Persons <i>You do not have to complete this form. Please go to the questionnaire for a Labour Broker.</i> 1.2. A service with a determinable result <i>Please attach a copy of a signed service agreement, and continue to question 3.</i>
3. Name of your entity:
4. Type of entity : Company <input type="checkbox"/> Close Corporation <input type="checkbox"/> Trust <input type="checkbox"/> If other, specify _____
5. How many employees who are unconnected to the entity are employed by the entity on a full time basis throughout the year of assessment?  <b>Note:</b> <i>The term "unconnected" excludes the shareholders / members or beneficiaries, or their relatives and any support staff (e.g. secretaries, cleaners, etc.).</i>  <input type="checkbox"/> <i>If the answer is more than 4, you do not have to proceed with the questionnaire. (You are classed as INDEPENDENT)</i>
6. Nature of income:  1.3. Is <b>80% or more</b> of the income of the entity for the current year of assessment derived directly or indirectly from one client or likely to be derived directly or indirectly from one client or an associated institution in relation to one client?  YES <input type="checkbox"/> NO <input type="checkbox"/> <i>Please explain briefly</i> ..... ..... 1.4. Do the amounts paid for the services rendered include earnings, which are payable at regular (e.g. daily, weekly, monthly) <b>intervals</b> ?  <i>Please explain briefly</i> ..... ..... 1.5. Are such <b>payments</b> a fixed amount on a regular basis, e.g. monthly, or are they based with reference to results for service or work performed?  <i>Please explain briefly</i> ..... ..... 1.6. Are payments made on an invoice basis?  How are these payments <b>determined</b> , e.g. based on an hourly rate, a monthly or weekly fixed amount, OR per task / work / services performed during that period?  <i>Please explain briefly</i> ..... ..... <i>Please attach a copy of the latest invoice submitted by you to UCT</i>
7. If you were rendering your services to UCT directly and not through a separate entity, do you believe that you would have been regarded as an employee of UCT?  <i>Please explain briefly</i> ..... .....



8. Supervision and control:

8.1. Does UCT determine the following? *Please tick relevant box.*

Your hours of work	<input type="checkbox"/>	The timing and amounts of payment/s to be made	<input type="checkbox"/>
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*Please explain briefly* .....

.....

8.2. Are your activities supervised and / or controlled by UCT? YES  NO

*Please explain briefly* .....

.....

8.3. Does UCT provide you with the following? *Please tick relevant box.*

An office	<input type="checkbox"/>	Equipment, tools, stationery and material	<input type="checkbox"/>	Training	<input type="checkbox"/>
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*Please explain briefly* .....

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9.

<b>Company Registration Number</b>	<b>Vat Registration Number (if applicable)</b>

I declare that the information furnished in this questionnaire is true and correct and undertake to advise UCT within 7 days should any of the answers provided by me above change. I furthermore acknowledge that the information provided above will be used by UCT to determine whether payments to me will be subject to the withholding of employees' tax

\_\_\_\_\_  
 Name in block letters

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date

**To be completed by Area Finance Manager or duly delegated senior area finance staff member**

Independent? YES <input type="checkbox"/> NO <input type="checkbox"/> Refer / complete <a href="#">Appendix B</a> for assistance	
If independent, attach a signed copy of this questionnaire and assessment to the invoice, remembering to keep a copy of such documentation on record.	
If dependent, let the contractor complete the relevant HR form ASAP and submit to HR dept before the relevant payroll deadline. See <a href="#">FG002</a> , 3. Payment via HR.	
Date of assessment:	
Name:	Position
Tel Ext	Signature



**UCT's guide to the classification of contractors (Extracted from [FG002](#), APPENDIX B – Section 3)**

*Private Company / Close Corporation / Trust or other legal entity*

<p>1. Does the contractor provide a service to the University of Cape Town or does the entity provide persons?  <b>If "PERSONS", please go to the questionnaire for a Labour Broker</b>  <b>If "SERVICE", continue to question 2 below</b></p>		
<p>2. Did / will the contractor employ 4 or more full-time unconnected employees throughout the year of assessment?  <b>If "YES", the Company / CC / Trust / legal entity cannot be a Personal Service Company / Trust and no PAYE need be withheld.</b>  <b>If "NO", proceed with classification.</b></p>	YES	NO
<p>3. Are the services rendered on behalf of the entity rendered personally by a person connected to such entity (e.g. the member of the CC, shareholder of the company or beneficiary of the trust)?  <b>If "NO", the Company / CC / Trust / legal entity cannot be a Personal Service Company / Trust and no PAYE need be withheld.</b>  <b>If "YES", proceed with classification.</b></p>	YES	NO
<p>4. Does more than 80% of the income of the Company / CC / Trust / legal entity consists of or is it likely to consist of amounts received, directly or indirectly, from UCT during the year of assessment?  <b>If "YES", the Company / CC / Trust / legal entity is a Personal Service Company / Trust. <a href="#">See *Note</a> below.</b>  <b>If "NO", proceed with classification.</b></p>	YES	NO
<p>5. Would the contractor be regarded as an employee of yours if the contractor rendered the service directly, as opposed to via the Company / CC / Trust / legal entity?  <i>(This is a factual question, which should be considered in light of the specific circumstances and terms pertaining to the services rendered by the contractor)</i>  <b>If "YES", the Company / CC / Trust / legal entity is a Personal Service Company / Trust. <a href="#">See *Note</a> below.</b>  <b>If "NO", proceed with classification.</b></p>	YES	NO
<p>6. Is the contractor or Company / CC / Trust / legal entity subject to your control or supervision as to the manner in which or hours during which the duties of the contractor in rendering services to you are performed? <i>(This is a factual question. Any indication in the agreement between the Company / CC / Trust / legal entity and you that you have, or are entitled to have, control or supervision would be sufficient to satisfy this requirement i.e. the answer would be "Yes".)</i>  <b>If "YES", the Company / CC / Trust / legal entity is a Personal Service Company / Trust. <a href="#">See *Note</a> below.</b>  <b>If "NO", proceed with classification.</b></p>	YES	NO
<p>7. Do the amounts paid or payable to the Company / CC / Trust / legal entity include earnings of any description which are payable at regular intervals e.g. daily, monthly?</p>	YES	NO



<p>Where earnings are payable on a regular basis, it should be considered on what basis payment is made: -</p> <ul style="list-style-type: none"> <li>• if it is a fixed amount, this requirement will generally be satisfied unless the fixed amount is only payable once an agreed result has been achieved;</li> <li>• if it is based on an hourly rate, you should consider whether or not payment is dependent on an agreed result. For example, payment made only once a certain project or part thereof is completed;</li> </ul> <p>Where payment is not result driven i.e. payment per hour takes place without regards to actual output but only hours worked, this requirement will be satisfied.</p> <p><b>If “YES”, the Company / CC / Trust / legal entity is a Personal Service Company / Trust. See *Note below.</b></p> <p><b>If “NO”, proceed with classification.</b></p>		
<p>8. Is the dominant impression of the relationship dependent?</p> <p>Please complete the <a href="#">Dominant Impression Test</a> before answering this question.</p>	YES	NO

**\*NOTE:** If the answer to question 3 was “YES” and any **one** of the 4 tests as set out in questions 4, 5, 6 and 7 were met, the Company / CC / Trust / legal entity is a Personal Service Company/Trust.

- Payments made to contractors operating through incorporated entities, which are defined as Personal Service Companies, are subject to the deduction PAYE at a flat rate of 35%.
- Payments made to Personal Service Trust are subject to the deduction of PAYE at a flat rate of 40%.

Classification of Contractor:		Tax rate to apply:	
Name (in block letters):			
Signature		Date:	



**Dominant Impression Test: Private Company/CC/Trust/other legal entity**

	INDICATOR	SUGGESTS DEPENDENT WORKER STATUS	SUGGESTS INDEPENDENT CONTRACTOR STATUS
<b>NEAR CONCLUSIVE</b> Control manner / executive acquisition	Control of manner of working	Employer instructs (has right to) which tools / equipment / staff / raw materials / routines / patents / technology.	Person chooses which tools / equipment / staff / raw materials / routines / patents / technology.
	Payment regime	Payment at <u>regular intervals</u> / by a rate x time-period, <b>but regardless of output or result.</b>	Payment by a rate x time-period but with reference to results, or payment by output.
	Person who must render the service	Person obliged to render service personally, hires & fires only with approval.	Person, as employer, can delegate to, hire & fire own employees, or can subcontract.
	Nature of obligation to work	Person obliged to be present, even if there is no work to be done.	Person only present & performing work if actually required, & chooses to.
	Employer (client) base`	Person bound to an exclusive relationship with one employer. (Particularly for independent business test.)	Person free to build a multiple concurrent client base. (Especially if tries to build client base – advertises etc.)
	Risk / Profit & Loss	Employer bears risk (pays despite poor performance / slow markets). (Particularly for independent business test.)	Person bears risk (bad workmanship, price hikes, time over-runs).
<b>PERSUASIVE</b> Extent of control	Instructions / supervision	Employer instructs on location, what work, sequence of work, etc. or has the right to do so.	Person determines own work, sequence of work, etc. Bound by contract terms, not orders as to what work, where, etc.
	Reports	Control through oral / written reports.	Person not obliged to make reports.
	Training	Employer controls by training the person in the employer's methods.	Worker uses / trains in own methods.
	Productive time (work hours, work week)	Controlled or set by employer or person works full time or substantially so.	At person's discretion.
<b>RELEVANT</b> Labels, clauses, compliance, economic circumstances, "resonant" of	Tools, materials, stationery, etc.	Provided by employer, no contractual requirement that person provides.	Contractually / necessarily provided by person.
	Office / workshop, admin / secretarial, etc.	Provided by employer, no contractual requirements that person provides.	Contractually / necessarily provided by person.
	Integration / usual premises	Employer's usual business premises.	Person's own / leased premises.
	Integration / usual business operations	Person's service critical / integral part of employer's operations.	Person's services are incidental to the employer's operations or success.
	Integration / hierarchy & organogram	Person has a job designation / a position in the employer's hierarchy.	Person designated by profession or trade, no position in the hierarchy.
	Duration of relationship	Open ended / fixed term & renewable, ends on death of worker.	Limited with regard to result, binds business despite worker's death.
	Threat of termination / breach of contract	Employer may dismiss on notice (LRA equity aside), worker may resign at will (BCEA aside).	Employer in breach if it terminates prematurely. Person in breach if fails to deliver product / service.
	Significant investment	Employer finances premises, tools, raw materials, training, etc.	Person finances premises, tools, raw materials, training, etc.
	Employee benefits	Especially if designed to reward loyalty.	Person not eligible for benefits.
	Bona fide expenses or statutory compliance	No business expenses & / or travel expenses reimbursed by employer. Registered with trade / professional association.	Overheads built into contract prices. Registered under tax / labour statutes & with trade / professional association.
	Viability on termination	Obliged to approach an employment agency or labour broker to obtain new work (particularly for independent business test).	Has other clients, continues trading. Was a labour broker or independent contractor prior to this contract
	Industry norms, customs	Militate against independent viability - make it likely person is an employee.	Will promote independent viability - make it likely person is an independent contractor or labour broker