

Independent Contractors

Child Support Helpline: (888) 208-4485
childsupport.ny.gov

TTY: (866) 875-9975 – Relay Service
<http://www.fcc.gov/encyclopedia/trs-providers>

The income of independent contractors is a viable source of financial stability for many children and families. Employers/income withholders are responsible for withholding support from payments made to independent contractors pursuant to the Income Withholding Order/Notice for Support (IWO).

Who are Independent Contractors?

- Independent contractors are generally individuals who are in an independent business, trade, or profession in which they offer their services to the general public.
- An independent contractor generally has an agreement with an employer/income withholder to do a particular piece of work. An individual may be an independent contractor if the employer/income withholder does not provide, or have the right to provide, supervision, direction and control over the individual who performs the services.
- Typically taxes are not withheld from the payments made to an independent contractor. In contrast, income taxes and Social Security and Medicare taxes must be withheld from wages paid to an employee.
- Signs of independent contractor status may include, but are not limited to, an individual who:
 - Keeps a place of business and invests in facilities, equipment, and/or supplies;
 - Advertises in the electronic or print media;
 - Carries insurance;
 - Pays his or her own expenses; and
 - Sets or negotiates pay rates.

Employer/Income Withholder Responsibilities:

- Employers/income withholders must take immediate action to withhold support from the income of the independent contractor named in an IWO.
 - *Income* includes any earned, unearned, taxable or non-taxable income, benefits, or periodic or lump sum payment due to an individual. See New York Civil Practice Law and Rules § 5241(a)(6) for a complete definition.
 - Examples of income include, but are not limited to, wages, salaries, commissions, and bonuses.
- For ongoing payments: The employer/income withholder must withhold and remit payments in accordance with the “Amount to Withhold” section on page 1 of the IWO (e.g., weekly, biweekly, semimonthly, monthly).
- For one time (lump sum) payments: The amount withheld by the employer/income withholder depends on the type of compensation.
 - If the income is compensation for personal services (such as commissions, bonuses, salaries), the employer/income withholder must withhold the amount of the support arrears/past due support up to the appropriate New York State limitations. See 18 NYCRR §347.9(2)(h)(12).
 - If the income is not compensation for personal services (such as benefit, dividend, or interest payments), the employer/income withholder must withhold the **full amount** of support arrears/past due support that is due at the time of the payment.