

EMPLOYEE OR INDEPENDENT CONTRACTOR? WHY IS THE DIFFERENCE SIGNIFICANT?

Duration: ½ day

Objective

To equip delegates with an understanding of the importance of the true nature of the underlying relationship between parties. To provide the tools and equip delegates with the skills to correctly classify employees versus independent contractors. Identify the risks of an incorrect classification. Decide on the correct approach and strategy.

Design

- **Definition of employee & independent contractor/independent service provider (ISP)**
- **Rebuttable presumption as to who is an employee**
 - Unpacking factors listed in section 200A of LRA / section 83A of BCEA
 - Unpacking Code of Good Practice: Who is an employee?
 - Who needs to prove what?
- **Application of dominant impression/reality test**
 - Applying the dominant impression test
 - Unpacking the dominant impression indicators
 - Unpacking relevant case law
- **Contractual clauses**
 - Identifying the most important clauses in ISP agreement versus employment contract
- **Risks**
 - Identifying the risks if independent contractor is deemed an employee
- **What if you are uncertain?**
- **What if the person insists on having an ISP contract?**
- **Tax position of an ISP**

Target group

HR/IR Practitioners and Management

