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# CLIENT NOTE

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## THE DIFFERENCES BETWEEN THE EMPLOYMENT AGREEMENT AND SERVICES AGREEMENT



### INTRODUCTION

Within the context of the Armenian legal framework, contractual agreements serve as the cornerstone for establishing clear rights, obligations, and expectations in professional relationships. In Armenia, two commonly utilized types of contracts for hiring staff by Armenian entities are the Services Agreement and the Employment Agreement. These legal instruments govern the relationships between service providers and employers, outlining the terms of engagement and the respective rights and responsibilities of the parties involved.

**This client note aims to provide an in-depth analysis of the differences between Services Agreements and Employment Agreements in accordance with Armenian legislation.**

The Services Agreement is a contractual arrangement between a service provider and a client. This agreement defines the scope of services, performance expectations, payment terms, and other crucial details related to the provision of specialized services. It is commonly used for engagements such as consulting, freelancing, or project-based work.

Conversely, the Employment Agreement establishes the relationship between an employer and an employee. This legally binding document outlines the terms and conditions of employment, including job responsibilities, benefits, working hours, leave policies, termination procedures, and other provisions.

Given the unique characteristics and legal implications associated with Services Agreements and Employment Agreements under Armenian legislation, it is crucial to understand the distinctions between these two types of contracts.

## THE DIFFERENCES

### 1. WORKING CONDITIONS AND RIGHTS:

- **Employment Agreement:**

An Employment Agreement serves as the legal foundation for the relationship between an employer and an employee. Within the Armenian legal framework, employees are entitled to specific rights and protections, as outlined by the Labor Code. One such protection is the regulation of working hours, which ensures that employees are not subject to excessive or exploitative workloads. The Employment Agreement sets forth the agreed-upon working hours, which should adhere to the guidelines set by the Labor Code. Additionally, employees are entitled to rest periods and breaks during their working hours, allowing for adequate rest and recuperation. Furthermore, the Employment Agreement stipulates the employee's entitlement to annual vacation, granting them the right to take time off from work for leisure and personal wellbeing. These conditions and protections offered by the Employment Agreement are designed to safeguard the rights and well-being of employees within the Armenian labor market.

- **Services Agreement:**

In contrast to the Employment Agreement, the Services Agreement typically does not encompass regulations or guarantees for working hours, rest periods, or annual vacation. The Services Agreement is primarily concerned with defining the scope of services to be provided by the service provider, the deliverables, and the payment terms. As such, the working hours and rest periods of the service provider are not subject to the same level of regulation as those of employees under the Employment Agreement. The Services Agreement allows for more flexibility in terms of scheduling and workload allocation.

### 2. FINANCIAL CONSIDERATIONS:

- **Employment Agreement:**

Within an Employment Agreement, employers are designated as tax agents responsible for deducting and remitting certain obligatory contributions from the employee's salary. These contributions typically include income tax (20 %). Additionally, employers are required to pay stamp duty, which is calculated based on the employee's income. Furthermore, they must make mandatory pension contributions (5 %) on behalf of the employee, contributing towards the employee's future retirement benefits.

- **Services Agreement:**

In contrast, the obligations related to obligatory contributions under a Services Agreement are different. Generally, only income tax is applicable in the case of a Services Agreement. Service providers in Armenia are responsible for fulfilling their tax obligations independently (unless otherwise provided by the agreement).

### 3. WORK OPPORTUNITIES:

- **Employment Agreement:**

Within an Employment Agreement, individuals generally have the opportunity to hold one full-time job and one part-time job simultaneously. While individuals under an Employment Agreement may have the option to engage in additional part-time employment, it is subject to certain limitations, such as adherence to working hour regulations and the employer's consent.

- **Services Agreement:**

In contrast, Services Agreements offer greater flexibility, allowing individuals to engage in multiple work opportunities simultaneously. Unlike the Employment Agreement, Services Agreements do not typically impose restrictions on individuals from pursuing multiple work engagements. This flexibility enables service providers to take on various projects or clients concurrently, depending on their availability and capacity to deliver the required services.

#### 4. OBLIGATIONS:

- **Employment Agreement:**

Under an Employment Agreement, employees are generally obligated to adhere to the internal regulations set by the employer. These internal regulations outline various policies, procedures, and guidelines that govern employee conduct, behavior, and performance within the organization. Employees are expected to comply with these regulations, which may cover areas such as dress code, working hours, leave policies, confidentiality, ethical standards, and other relevant aspects of their employment.

- **Services Agreement:**

In contrast, service providers under a Services Agreement do not typically have the same obligation to follow the internal company regulations of the client. As independent contractors or freelancers, service providers operate autonomously, bringing their expertise and specialized services to clients on a project or task basis. While service providers are expected to deliver the contracted services in accordance with the terms agreed upon in the Services Agreement, they generally retain more independence and freedom in managing their work methods and schedule.

#### 5. WORKPLACE REQUIREMENT:

- **Employment Agreement:**

Within an Employment Agreement, it is essential to specify the workplace where the employee will carry out their duties. This requirement ensures clarity and establishes the physical location or site where the employee is expected to perform their work.

- **Services Agreement:**

In contrast, Service Agreements generally do not require the specification of a specific workplace. Service providers operating under a Services Agreement typically have greater flexibility in determining where they perform their services. The focus of a Services Agreement is on the deliverables or services to be provided, rather than the specific physical location where the work is carried out.

#### 6. DELIVERABLES:

- **Employment Agreement:**

Within an Employment Agreement, the primary focus is on defining the employee's role, responsibilities, and tasks within the organization. The agreement outlines the scope of work, job description, and the general duties expected of the employee. While there may be performance expectations and targets, employment agreements typically do not impose a specific obligation on the employee to deliver a particular result or outcome (unless such deliverables are set by the agreement or another document).

- **Services Agreement:**

In contrast, Service Agreements typically require the service provider to deliver a specific result or outcome as part of the contractual obligations. The agreement explicitly will outline the desired outcome, deliverables, or targets that the service provider is expected to achieve within the agreed-upon scope of work. Service agreements focus on the successful completion of the task, project, or service, and the service provider's ability to meet the client's specific requirements or specifications.

## 7. JOB DESCRIPTION AND SERVICE DESCRIPTION:

- **Employment Agreement:**

Within an Employment Agreement, the job description plays a pivotal role in outlining the specific liabilities and responsibilities of the employee. The agreement clearly specifies the tasks, duties, and obligations that the employee is expected to perform in their role. Employers are obliged to provide a detailed and comprehensive job description, ensuring that the employee has a clear understanding of their specific responsibilities. It is important for employers to avoid using vague or unclear language, such as "performing other tasks instructed by the employer," which would fall outside the scope of the employee's job responsibilities.

- **Service Agreement:**

In contrast, the focus of a Service Agreement is primarily on describing the services to be provided, rather than specifying detailed job responsibilities. The service description can be more general in nature, as long as it is clear and understandable to the parties involved.

## 8. TERMINATION:

- **Employment Agreement:**

In an Employment Agreement, the termination process is subject to specific regulations established by the Labor Code. The employee has the right to terminate the contract by providing a one-month notice to the employer. This notice period allows the employer to find a replacement or make necessary arrangements for the employee's departure. If an employee violates the notice period when terminating the employment agreement, they may be required to pay a fine to the employer. However, for the employer, termination requires a specific basis established by the Labor Code, such as a breach of contract, unsatisfactory performance, or other valid justifications as outlined in the legislation.

- **Service Agreement:**

In contrast, a Service Agreement offers more flexibility in terms of termination procedures and notice periods. The termination regulations can be established within the agreement itself, providing parties with the freedom to negotiate and determine the conditions under which the agreement can be terminated. The service

provider or client can terminate the agreement by providing notice according to the terms outlined in the service agreement.

## CONCLUSION

In conclusion, the Employment Agreement and Services Agreement in Armenia exhibit notable differences in various aspects, including obligations, specification of the workplace, focus on roles and results, and termination procedures. Understanding these distinctions is crucial for employers seeking to establish clear and effective working arrangements.

Our team is well-versed in the legal landscape and intricacies of employment and services agreements in Armenia. We have a deep understanding of the rights and obligations of both employers and employees, as well as service providers and clients. With our expertise, we can assist our clients in navigating the complexities of these agreements, ensuring compliance with relevant laws and regulations.

By leveraging our knowledge and experience, we aim to support and empower our clients in establishing productive, legally compliant, and mutually beneficial working relationships.

**NOTE: This material is for general information only and is not intended to provide legal advice. By publishing this note we assume no obligation to update the information provided herein.**

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