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Direct Payments - Advice notes

Tax employment status – Employed or Self-employed?

When you take on a Personal Assistant (PA) you will need to work out their 'tax employment status for Tax and National Insurance purposes. Tax employment status depends on whether your PA is employed by you or self-employed.

This status is important as it affects the type and rate of Tax and National Insurance Contributions (NICs) a person pays.

Be aware, you cannot just pick a tax employment status because it is better for you or your PA. Tax law can dictate your PA's Tax Employment Status.

Should you get the status wrong, you could find that you have to pay any unpaid Tax and NICs to Her Majesty's Revenue and Customs (HMRC) and, in some instances, a penalty charge too.

If you take on a PA who is genuinely self-employed, you will not have the responsibility of deducting Tax and NICs from your PA's wages, and the self employed PA will have the responsibility to pay Tax and NICs themselves.

If you use an agency, they are the employers so you do not need to do anything.

Deciding if your PA is employed or self-employed

Self-employed workers will be registered with HMRC so you could ask them for a copy of their registration letter.

In most cases it is generally straightforward to decide someone's tax employment status.

If the answer is '**Yes**' to all or most of the following questions, then your PA is probably an **employee**:

- Do you tell them what work to do as well as how and when to do it?
- Do they have to do the work themselves?
- Can you move them from task to task?
- Are they contracted to work a set amount of hours?

- Do they get regular pay or a salary, even if there is no work available?
- Can they get overtime pay or bonus pay?
- Do they get benefits such as paid leave or a pension as part of their contract?

If the answer is 'Yes' to all or most of the following questions, it will usually mean that your PA is **self-employed**:

- Can they hire someone else to do the work for them or engage helpers at their own expense?
- Do they decide what work is done, when and where or how it is done?
- Do they risk their own money?
- Do they provide the main items of equipment they need to do their job, not just the small tools that many employees provide for themselves?
- Do they agree to do a job for a fixed price regardless of how long it takes to finish the job?
- Do they use their own money to buy business assets, pay for running costs and so on?
- Can they make a loss or a profit?

If you have any doubts, HMRC can help you decide the tax employment status of your PA. They offer an online tool which you can use to help you:

www.gov.uk/guidance/check-employment-status-for-tax

HMRC says you can rely on the tool answer as evidence of your PA's status for Tax and NIC purposes providing you answered the questions accurately. You should print or save a copy of the enquiry and result so that if there are any questions from HMRC at a later date you can show these as evidence that you ran a tax employment status check.

You can also contact the HMRC customer service team to ask for a written opinion about your situation:

www.gov.uk/government/organisations/hm-revenue-customs/contact/status-customer-service-team

Tel: **0300 123 2326**

More information and help

If you need help to understand this advice note, or you're not sure or worried about something, please get in touch with us and we'll be happy to help.

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