



Inland
Revenue

Employed or self-employed?

A guide to employment status for tax and
National Insurance contributions

BUSINESS SERIES
IR56



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We have a full range of services for people with disabilities, including leaflets in Braille, audio and large print. For details, please ask your local Inland Revenue office or Enquiry Centre.

This leaflet will help you to work out whether you are employed or self-employed.

Introduction

This general guide to employment status for tax and National Insurance contributions (NICs) will help in deciding whether you are an employee or self-employed. Although it is aimed at workers, it will also be useful for those who engage workers.

Your employment status will affect how much tax and NICs you pay and how it will be collected. The type of National Insurance that you pay will affect some types of benefits, for example, whether you can receive Statutory Sick Pay when you are unable to work through ill health.


The person you work for needs to decide your correct employment status. It is their responsibility and it is important that they get this right so that you

- get the appropriate employment rights
- pay the right amount of tax and NICs, and
- have access to the correct benefits.

If you are an employee or self-employed for tax purposes then you are also likely to be regarded as having that same status for employment rights and benefits purposes. You can get further information about these issues from

- Department of Trade and Industry (for employment rights) at www.dti.gov.uk and by phoning **020 7215 5000**, and
- Department for Work and Pensions (for benefits) at www.dwp.gov.uk and by phoning **020 7712 2171**.

If you are employed, your employer will need to deduct tax from your pay (through PAYE) and Class 1 NICs. If you are self-employed, you are responsible for paying your own tax and NICs.

 Just because you are employed or self-employed in one job, it doesn't necessarily mean you will be in another job.

Determining employment status

The law for tax and social security legislation does not define 'employment' and 'self-employment'. But, over the years, the Courts have considered this issue and their guidance on whether an individual is an employee or self-employed is known as case law.

You or the person you work for, cannot simply choose whether you will be an employee or self-employed. It will depend on the terms, conditions and facts of your engagement.

For example, if you work in the construction industry and possess a CIS4 or CIS6 card that does not mean you are automatically self-employed for each engagement. For more information see leaflet IR148 'Are your workers employed or self-employed?'

Broadly, you are

- **self-employed** if you are in business on your own account and bear the responsibility for the success or failure of that business, and
- **employed** if you personally work under the control of someone and do not run the risks of having a business yourself.

How do I work out my employment status?

The questions on pages 5 and 6 should help you and the person you work for decide what your correct employment status is, although they are only a brief guide and don't cover every situation. It is not possible to list all the factors which may be relevant or provide a precise guide to their relative importance.

For each engagement, you will need to look at the whole picture taking account of the written terms and, if necessary, all the facts relating to what happens in practice. Some of these factors will be more important than others, depending on the particular circumstances.

If you work for a company on a production line in its factory, you are almost certainly an employee. You may also have a written contract of service or you may be a member of a pension scheme open only to employees.

If you are in business on your own account, you are self-employed. For example, if you run your own shop, or are buying and selling goods, or providing services direct to the public from your own office premises.

Usually it will be easy to decide whether you are an employee or self-employed, but there will be times when it will not be so easy. You will need to look at the job as a whole, taking into account all the conditions that you are required to work under. This guide will help you and the person you work for to decide, but it is not possible to cover all scenarios and situations.

Help and advice

If you are unsure, or you have any questions, you need to speak to your local Status Inspector or Status Officer. They are responsible for enquiries and decisions about employment status. You can ask at your local Inland Revenue Enquiry Centre for the name and telephone number of the Status Inspector or Status Officer.

You can find detailed guidance by viewing our Employment Status Manual on our website at

www.inlandrevenue.gov.uk/manuals/esmanual

Employment law and protection

As well as applying for tax and National Insurance purposes, these considerations may apply in employment law matters such as unfair dismissal and redundancy. Other considerations may also be relevant in these areas, so the position under employment law will not necessarily be the same as under tax and National Insurance law.

For employment protection purposes the employment tribunals, which are independent judicial bodies, will decide whether someone who makes a complaint is an employee or self-employed.

Special rules

Some rules do not follow the normal principles in determining employment status for tax and NICs.

Special rules may apply to certain jobs or positions.

For instance, if

- your work is arranged through an agency, or
- you are a company director, the secretary of a club or the holder of any other office

you will normally have to pay tax and NICs as if you are an employee.

Some special rules apply to NICs but not tax. These may affect you if you

- are an office cleaner
- are a minister of religion
- are an examiner, moderator or invigilator of an examining board
- are a school teacher, lecturer or instructor
- are an entertainer
- work for someone in your family.

Ask at your local Inland Revenue Enquiry Centre for advice.

For more information, see leaflet CA26 'National Insurance contributions for examiners, moderators and invigilators, lecturers, teachers and instructors'.

Some special rules apply to tax but not NICs. These may affect you if you are

- a deep sea diver
- a non-permanent, casual or freelance worker in a specified grade in the Film or Television Industry.

For enquiries about status in the Film Industry contact

North-East Metropolitan Area
Film Industry Unit
Tyne Bridge Tower
Gateshead
NE8 2DQ

Tel: **0191 490 3662**

For enquiries about status in the TV Broadcasting Industry contact

Manchester Chapel Wharf Area
TV Industry Unit
4th Floor, Trinity Bridge House
2 Dearmans Place
Salford
M3 5BS

Tel: **0161 261 3255**

Services through an intermediary

If you use an intermediary (for example, a limited company or a partnership) to provide your services, you will need to know about the tax and NICs rules that may apply in those circumstances. Please see leaflet IR175 'Supplying services through a limited company or partnership'.

Employed or self-employed?

Employee

If you can answer 'Yes' to all of the following questions, you are probably an employee.

- Do you have to do the work yourself?
- Can someone tell you at any time what to do, where to carry out the work or when and how to do it?
- Do you work a set amount of hours?
- Can someone move you from task to task?
- Are you paid by the hour, week, or month?
- Can you get overtime pay or bonus payment?

Self-employed

If you can answer 'Yes' to all of the following questions, it will usually mean you are self-employed.

- Can you hire someone to do the work for you or engage helpers at your own expense?
- Do you risk your own money?
- Do you provide the main items of equipment you need to do your job, not just the small tools many employees provide for themselves?
- Do you agree to do a job for a fixed price regardless of how long the job may take?
- Can you decide what work to do, how and when to do the work and where to provide the services?
- Do you regularly work for a number of different people?
- Do you have to correct unsatisfactory work in your own time and at your own expense?

Casual, or part-time working

The same considerations to determine employment status will apply even if you work part-time or on a casual basis. Unless you can answer 'Yes' to the self-employed questions above, you will normally be an employee.

More than one job

If

- you have more than one job, or
- you work for a number of different people for a few days or weeks at a time

you will need to answer the questions on pages 5 and 6 for **each** job.



Remember, just because you are employed or self-employed in one job, it doesn't necessarily mean you will be in another job.

If you provide services to many people and do not work regularly for one person to the exclusion of others, this may affect whether your work for each is as an employee, or as a self-employed person.

You could even be an employee and self-employed at the same time. For example, you could

- be employed as a part-time shop assistant and spend the rest of your time running your own business from home, or
- work full-time in a factory as an employee, and run a part-time business in the evening or weekends.

You may have a number of casual or part-time activities, and in some may be an employee and in others self-employed. It all depends on the facts.

Tax and National Insurance contributions

Employee

It will normally be your employer's responsibility to deduct tax and National Insurance contributions from your pay under PAYE and pay it to the Inland Revenue.

Self-employed

You are responsible for your own tax and National Insurance contributions. This means

- telling your Inland Revenue office if you haven't already done so, that you are in business
- telling your Inland Revenue office about all your income. Once you have told us that you are in business, we will normally send you a Self Assessment tax return each year to enable you to do this. However, you must still tell us about income you have in any tax year, even if we do not send you a tax return for that year
- paying the tax
- paying Class 2 National Insurance contributions. We will send you a bill every 13 weeks in arrears, unless you choose to pay monthly by direct debit
- paying Class 4 National Insurance contributions.

Being self-employed also affects

- the benefits you can claim, such as unemployment benefit
- other rights, for example the right to maternity leave, or to a redundancy payment, notice rights and so on
- liability to the public for the work you do for them.

When should I register?

You should tell us as soon as you start working for yourself.

If you do not register within the first three months of self-employment, you may have to pay a penalty of £100.00. And if you do not register and are not paying tax, you will be breaking the law and could be liable to further penalties.

The easiest way to register is to phone the Helpline for Newly Self-Employed on **0845 915 4515**.

If you would like to know more about how tax and National Insurance affects the self-employed, please visit our website at **www.inlandrevenue.gov.uk**

Still not sure?

If you are not sure whether you are an employee or self-employed, or if you have any other questions, please contact your local Inland Revenue Enquiry Centre for advice.

After establishing the relevant facts, they can give you a written opinion about your particular employment status for tax and National Insurance contributions purposes. If you do not agree, we will reconsider it in the light of any additional information you can provide.

If we still cannot agree, you have the right to appeal. You can get a copy of the Department of Constitutional Affairs leaflet 'Tax Appeals. A guide to appealing against decisions of the Inland Revenue on tax and other matters' from any Inland Revenue Enquiry Centre.

If you are paying someone to work for you and are not sure if you are the employer responsible for deducting PAYE and National Insurance contributions from their pay, your local Inland Revenue Enquiry Centre can also advise you.

Further information

We produce a wide range of leaflets. Some we have mentioned which you might find useful are

- IR148 Are your workers employed or self-employed?
- IR175 Supplying services through a limited company or partnership
- CA01 National Insurance contributions for employees
- CA25 National Insurance for agencies and people finding work through agencies
- CA26 National Insurance for examiners, moderators and invigilators, lecturers, teachers and instructors
- COP1 Putting things right. How to complain.

Our leaflets are available at www.inlandrevenue.gov.uk and from any Inland Revenue Enquiry Centre. Most are open to the public from 8.30am to 5.00pm, Monday to Friday. Addresses are in your local phone book under 'Inland Revenue' and at www.inlandrevenue.gov.uk/local

You can get many leaflets from our Orderline by

- phone or textphone (for Minicom users) on **0845 9000 404** from 8.00am to 10.00pm, every day except Christmas Day, Boxing Day and New Year's Day
- fax on **0845 9000 604**
- completing the on-line order form at www.inlandrevenue.gov.uk/contactus/staustellform.htm
- writing to
PO Box 37
St Austell
Cornwall
PL25 5YN.

Orderline calls are charged at local rates.

Your library or Citizens Advice Bureau may also have copies of some of our leaflets, but may not have them all.

These notes are for guidance only and reflect the position at the time of writing. They do not affect any right of appeal.

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