

Employed or self-employed for tax and National Insurance contributions

Is your employment status right?

This factsheet is about your employment status, a term we use to mean whether you are employed or self-employed. It will help you check that your employment status is right.

It will also help you understand the importance of employment status, as it affects the type of tax and National Insurance contributions (NICs) you pay and how you pay it. It affects your entitlement to benefits and may affect your employment rights.

Your employment status is not a matter of choice

Your employment status is based on the terms and conditions of the agreement you have with who you work for. They are responsible for making sure it is correct.

Employment status and the law

The law for tax, NICs and VAT doesn't define employment or self-employment. Generally, when we look at employment status, we apply the principles established by the courts. These principles are generally referred to as case law.

However, there are some special rules that do not follow case law principles, and apply to certain occupations and jobs. Some apply to tax, some to NICs and some to both if:

- your work is arranged through an agency
- you are
 - a company director, the secretary of a club or hold any other office, in relation to your earnings from that office
 - an office cleaner
 - a minister of religion
 - an examiner, moderator or invigilator of an examining board
 - a school teacher, lecturer or instructor
 - an entertainer
 - a deep sea diver
- you work for someone in your family.

For more information about special rules go to

www.hmrc.gov.uk/employment-status/index.htm#3 or contact any HMRC office or Enquiry Centre.

Special rules also apply if you are a non-permanent, casual or freelance worker of a specified grade in the film or TV industry.

For film industry enquiries phone **0191 461 6167**, 8.30am to 5.00pm Monday to Friday.

For TV industry and radio enquiries phone **0161 261 3254**, 8.30am to 5.00pm Monday to Friday.

More information

For more information about employment status for tax, NICs and VAT:

- go to www.hmrc.gov.uk/employment-status/index.htm
- contact any HMRC office or Enquiry Centre.

Non-United Kingdom (UK) nationals

If you are a non-UK national there might be certain restrictions on how you work in the UK. For more information go to the UK Border Agency at www.ind.homeoffice.gov.uk/visas-immigration/working/

HM Revenue & Customs commitment

We aim to provide a high quality service with guidance that is simple, clear and accurate.

We will:

- be professional and helpful
- act with integrity and fairness, and
- treat your affairs in strict confidence within the law.

We aim to handle your affairs promptly and accurately so that you receive or pay only the right amount due.

Putting things right

If you are not satisfied with our service, please let the person dealing with your affairs know what is wrong. We will work as quickly as possible to put things right and settle your complaint. If you are still unhappy, ask for your complaint to be referred to the Complaints Manager.

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Working through a Company or partnership

You may choose, or be advised, to provide your services through a Company or partnership. If you provide your services in this way then you will need to know whether the Intermediaries legislation (also known as IR35) or Managed Service Company legislation applies.

For information on Intermediaries legislation, go to www.hmrc.gov.uk/ir35 or phone the Helpline on **0300 200 3885**, 8.30am to 5.00pm Monday to Friday. For information on Managed Service Company legislation, go to www.hmrc.gov.uk/employment-status/msc.htm or contact any HMRC office or Enquiry Centre.

Checking your employment status

In most cases your employment status will be straightforward. In general terms, you are employed if you work for someone and don't have the risks of running the business. You are self-employed if you are in business for yourself and are responsible for the success or failure of that business.

To help you check your employment status, answer the following questions. These also apply if you are a casual or part-time worker. If you have more than one job the same questions apply for each job.

Employed - if you answer yes to most of the questions you are likely to be employed:

- Do you have to do the work yourself?
- Can someone tell you where to work, when to work, how to work or what to do?
- Can someone move you from task to task?
- Do you have to work a set number of hours?
- Are you paid a regular wage or salary?
- Can you get overtime pay or bonus payments?
- Are you responsible for managing anyone else engaged by the person or company that you are working for?

Self-employed - if you answer yes to one or more of the questions you are likely to be self-employed.

- Can you hire someone to do the work, or take on helpers at your own expense?
- Can you decide where to provide the services of the job, when to work, how to work and what to do?
- Can you make a loss as well as a profit?
- Do you agree to do a job for a fixed price regardless of how long the job may take?

If you can't answer yes to any of the above questions, you are still likely to be self-employed if you can answer yes to most of the following questions.

- Do you risk your own money?
- Do you provide the main items of equipment (not the tools that many employees provide for themselves) needed to do the job?
- Do you regularly work for a number of different people and require business set up in order to do so?
- Do you have to correct unsatisfactory work in your own time and at your own expense?

Customers with particular needs

We offer a range of facilities for customers with particular needs, including:

- wheelchair access to nearly all HMRC Enquiry Centres
- help with filling in forms
- for people with hearing difficulties
 - BT Typetalk
 - Induction loops.

We can also arrange additional support, such as:

- home visits, if you have limited mobility or caring responsibilities and cannot get to one of our Enquiry Centres
- services of an interpreter
- sign language interpretation
- leaflets in large print, Braille and audio.

For complete details please:

- go online at www.hmrc.gov.uk/enq or
- contact us. You will find us in The Phone Book under HM Revenue & Customs.

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Employment Status Indicator (ESI) tool

The questions on page 2 are general and may not cover your situation. If this is the case, then our online Employment Status Indicator (ESI) tool may help you.

You can use this tool to get a view of your employment status for the purposes of tax and NICs. It is free, easy to use and will help you work out whether you are employed or self-employed in all but the most complex of cases. For more information go to www.hmrc.gov.uk/calcs/esi.htm

If you have more than one job

It is possible that you could be employed 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, or work full-time as an employee and run your own part-time business in the evenings and weekends.

Why employment status is so important

Your employment status affects the type of tax and NICs you pay and how you pay it. If you are employed your employer will collect tax and NICs from your pay and pay it to us.

If you are self-employed you must register as self-employed with us and pay tax and NICs to us. You may also need to register for VAT. For more information go to www.hmrc.gov.uk/vat/index.htm or phone the VAT Helpline on **0845 010 9000**, 8.30am to 5.00pm Monday to Friday.

To register as self-employed go to www.hmrc.gov.uk/selfemployed/index.shtml or phone the newly self-employed Helpline on **0845 915 4515**, 8.30am to 5.00pm Monday to Friday.

Your entitlement to benefits and employment rights

Your employment status affects your entitlement to benefits and may affect your employment rights. Although the case law tests for employment status apply equally to employment law, the fact that you are regarded as employed or self-employed for tax, NICs and VAT purposes does not necessarily mean your employment status is automatically the same for other purposes.

- For information on benefits go to www.dwp.gov.uk
- For information on employment rights go to www.direct.gov.uk/en/Employment/Employees/index.htm

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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