

An Introduction to PAYE

Whether an individual is an employee or self-employed in a particular situation is a question of fact depending on the terms under which he or she works. When you engage someone to do work for you, you have to decide whether or not to apply the PAYE rules. It is up to you to get it right or suffer the consequences.

In certain areas, HM Revenue & Customs has placed emphasis on reclassifying individuals claiming to be self employed. They issued a leaflet, IR56, *Employed or Self-employed?* setting out the guidelines of employment status in the form of questions.

These cover the following principal factors:

- The degree of control and supervision exercised over the individual's work
- Whether services are performed mainly or wholly for one business
- Where the duties are performed
- Terms of pay, holiday time, pension arrangements, and other benefits
- Whether the work has to be performed personally, or whether a substitute may be supplied
- Provision of items of equipment
- The financial risk and responsibility for loss undertaken by the individual

A subsequent factsheet - ES/FS1 *Employed or self employed for tax and National Insurance contributions* – has now been released, and provides further advice on this issue in view of the new construction industry scheme as well as managed service companies.

Please note: We strongly recommend that if you are in any doubt as to the status of an individual, ask HM Revenue & Customs to clarify the situation. Obtaining their approval will avoid the risk of you having to make a settlement of liabilities to tax or NI that you failed to deduct from the employee's remuneration.

The HMRC website provides an Employment Status Indicator (ESI) in order to help work out employment status. Although it is intended for those who engage workers, it can be used by individuals who wish to know what their own employment status is. Outcomes are based purely on the information provided and can only be an indication of employment status, not a definitive or legally-binding opinion.

Before establishing a PAYE system, it is necessary to notify the HM Revenue & Customs office covering your geographical area by telephoning the New Employers' Helpline on 0845 60 70 143.

Upon registration, HM Revenue & Customs will send you guidelines on operating PAYE, national insurance, statutory sick pay, statutory maternity pay, statutory paternity pay and statutory adoption pay, including a number of forms with which to operate the PAYE and NI systems. (See checklist below).

To help you calculate the amount of tax and NI due, HM Revenue & Customs used to supply you with sets of tax tables. By referring to these, and an employee's tax code, you would be able to calculate the amount of salary not subject to tax. The difference between this figure and the gross amount paid is the employee's taxable pay. The tax could then be calculated by reference to another set of tables. The employer's and employee's NI would be calculated by reference to the employee's gross pay in conjunction with a third set of tables. Note, however, several 'benefits' are also subject to NI even where the tax is dealt with on a different basis.

Nowadays HM Revenue & Customs provide a CD-ROM which is very comprehensive. It contains all the information formerly produced on paper. There are facilities to complete various common forms on-screen, and you can use the various calculators to work out PAYE tax and national insurance contributions etc.

There is also an employer and employee database, which effectively allows you to use it as your electronic payroll.

The tax and NI should be paid to HM Revenue & Customs by 19th of the month following payment. Employers who pay electronically have until the 22nd of the month to pay. Where the 22nd falls on a weekend or is a bank holiday, payment must be received by the previous bank working day.

Employers whose average monthly payments of PAYE and NI are less than £1,500 in total are allowed to pay quarterly rather than monthly (i.e. by 19th of July, October, January, and April). This should be requested using form P31.

Electronic filing of PAYE returns

Employers can now file P35, P38A and P14 forms over the Internet. Employers are, on a phased basis, required to file their end of year returns electronically. The implementation date will depend on the number of staff involved, but all employers will have to send their returns electronically from May 2010.

Employers with fewer than 50 employees can get tax-free ‘incentive’ payments by filing their Annual return online, as follows:

Tax Year	Due by 19 May	Payment
2008-09	2009	£75

PAYE can be a tortuous procedure for the new businessperson. We would be pleased to show you how to operate it properly or provide a service for the maintenance of your PAYE records.