

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 (HMRC) have placed emphasis on reclassifying individuals claiming to be self employed. They have published two leaflets (ES/FS1 Employed or self-employed for tax and National Insurance contributions and ES/FS2 Are your workers employed or self-employed for tax and National Insurance contributions?), which set out a series of questions to test the particular circumstances of any working relationship. These cover areas such as:

- Ultimate control of the work
- Working for a number of people
- Profit element, and risk of loss
- Correction of faulty work
- Provision of materials and equipment
- Working hours
- Integration with the employer's business
- The intention between the parties
- Usual conditions in the industry

Note, however, these are matters of general employment law, and not specific tax legislation.

Please note: We strongly recommend that if you are in any doubt as to the status of an individual, ask HMRC 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

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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 an internet operated service, Basic PAYE Tools, 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).

Electronic filing of PAYE returns

All employers have to file their P35, P38A and P14 returns electronically.

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.