



COMMUNITY ACCOUNTANCY PROJECT - GUIDANCE NOTES

Employed or Self Employed ?

For most people most of the time there will not be any problem in trying to decide between employment and self-employment. However, it is a question that does crop up from time to time in voluntary organisations, especially in relation to short-term contracts.

The first important decision is that the decision on status does not belong to the individual. It is in fact determined by either an inspector of taxes employed by the Inland Revenue, or a National Insurance Inspector employed by the Contributions Agency or both.

It is not uncommon for an individual to approach the organisation saying that they have done this sort of work before on a self-employed basis and have an appropriate tax reference from the Inland Revenue. This is immaterial and each case must be examined in its own right.

The rule here for the organisation is if in any doubt - DEDUCT. In other words, treat the individual as an employee and leave the onus on them to prove that they should be treated as self-employed.

When making a decision on employment status, the inspector will look at a range of different criteria, none of which will necessarily individually define the case, but when taken together will indicate one or the other. These criteria will include the following:

- £ Does the employer define the tasks to perform (employed), or just the results which should be obtained?
- £ Does the employer retain the right to hire and fire?
- £ Does the employer define the hours and place of work of the individual?
- £ Does the employer provide the materials to perform the work? i.e. desk space, use of office equipment, a computer and even pens and paper?

- £ Is a proposed contract open ended, or rolling for a long period of time?

If the answer to these questions is yes more often than no, then you are probably looking at employed status. But remember, if in doubt check it out.

Make sure there is a written contract

If finally you do agree that the individual will be self-employed, then make sure that there is a firm written contract between the employer and the individual. This should specify:

- £ What the contract is for in clear and precise terms
- £ How much will be paid on satisfactory completion including any VAT if appropriate
- £ Any progress payments
- £ Completion date
- £ Perhaps most importantly, what will happen if things go wrong i.e. the work is not satisfactory, or the individual becomes ill

Dealing with what to do if things go wrong is the unpalatable part of drawing up a contract, but if you are not to be left with fees to pay and no work to show for it, this must be addressed.

Terminology can sometimes be a little confusing. Employed individuals pay tax through the PAYE (pay as you earn) system. Self-employed individuals are responsible for paying their own tax.

National Minimum Wage **New Rates from 1 October 2007**

Main Rate (22 years and over)	£5.52
Youth Rate (18-21 year olds)	£4.60
Development Rate (16-17 year olds)	£3.40