

# EMPLOYMENT STATUS - IT'S NOT A MATTER OF CHOICE



Determining the employment status of an individual is not a matter of choice. Over the years, this has been both a lucrative source of underpaid tax/NIC during HMRC compliance visits and an area of increased focus. It's important to ensure that you take the right approach. We look at the key issues.

In employment law, a person's employment status helps to determine both their rights and their employer's responsibilities. The main types of employment status are:

- ▶ Worker
- ▶ Employee
- ▶ Self-employed and contractor
- ▶ Director
- ▶ Office holder.

HMRC has also invested heavily in the recruitment and training of Status Inspectors, and has opened specialist units throughout the UK to deal specifically with status. Going forward, any status issue during a compliance review will be passed to one of these units to be reviewed by their specialists.

Making sure you pay individuals such as coaches correctly is therefore essential, as the financial risk to clubs can escalate in the event of a challenge by HMRC.

## Example

An individual engaged for £20,000 a year is re-categorised by HMRC as an employee.

HMRC would pursue tax and NIC of:

- ▶ Tax: £20,000 x 20% rate = £4,000;
- ▶ Employer's NIC: £20,000 x 13.8% = £2,760;
- ▶ Employee's NIC: £20,000 x 12% = £2,400.

This amounts to £9,160 per annum - up to £54,960 over six years, plus interest and penalties - for just one employee.

Whilst you can use HMRC's Check Employment Status for Tax (CEST) tool to consider the employment status of an individual, we strongly recommend that all employment status queries are reviewed by a member BDO's Employment Taxes team.

Taking on a new self-employed coach may seem like the ideal way to take the club forward, but care has to be exercised when looking at how they are to be integrated within the club.

Whilst it would be expected that a contract is signed between the parties, HMRC would look to see what degree of 'direction, supervision and control' is within the contract, as a genuinely self-employed person would normally be their own boss.

In addition, simple little things like supplying a coach with logoed tracksuits and polo shirts may look good, but HMRC can use this to suggest that they are part and parcel of the club and not truly independent.

Even assisting coaches with obtaining additional qualifications could come back to haunt you, as HMRC would expect a self-employed individual to incur their own costs in keeping themselves qualified and up to date.

Finally, engaging someone through the payroll - not necessarily as an employee - need not always cost the club money, as payments have to exceed monthly/annual limits before employer's NIC is due.

**FOR MORE INFORMATION PLEASE CONTACT:**



**Mike Hepburn**  
Senior Manager - Employment Taxes  
T: 0131 347 0355  
E: michael.hepburn@bdo.co.uk



This publication has been carefully prepared, but it has been written in general terms and should be seen as containing broad statements only. This publication should not be used or relied upon to cover specific situations and you should not act, or refrain from acting, upon the information contained in this publication without obtaining specific professional advice. Please contact BDO LLP to discuss these matters in the context of your particular circumstances. BDO LLP, its partners, employees and agents do not accept or assume any responsibility or duty of care in respect of any use of or reliance on this publication, and will deny any liability for any loss arising from any action taken or not taken or decision made by anyone in reliance on this publication or any part of it. Any use of this publication or reliance on it for any purpose or in any context is therefore at your own risk, without any right of recourse against BDO LLP or any of its partners, employees or agents.

BDO LLP, a UK limited liability partnership registered in England and Wales under number OC305127, is a member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms. A list of members' names is open to inspection at our registered office, 55 Baker Street, London W1U 7EU. BDO LLP is authorised and regulated by the Financial Conduct Authority to conduct investment business.

BDO is the brand name of the BDO network and for each of the BDO member firms.

BDO Northern Ireland, a partnership formed in and under the laws of Northern Ireland, is licensed to operate within the international BDO network of independent member firms.

Copyright © 2019 BDO LLP. All rights reserved. Published in the UK.

[www.bdo.co.uk](http://www.bdo.co.uk)

