

# EMPLOYED OR SELF-EMPLOYED IS NOT A PERSONAL CHOICE

## Whose responsibility is it?

It is a business owners' responsibility to identify if a relationship is one of a contract of services (employed) or contract for services (self-employed)

## It is not an option!

Whether an individual is employed or self-employed is not a matter of choice, but a combination of numerous factors creating an overall picture that determines which type of contract an individual should be engaged under.

## Why does it matter?

An individual's employment status determines the type of tax and NIC payable and how these are paid.

The business making payments to an individual for work carried out for that business must consider if the individual is employed or self-employed.

If an individual has been treated as self-employed but should have been treated as an employee, HMRC will seek to recover all tax and National Insurance Contributions (employees and employers) from the business as it will be regarded as the employer.

An individual's status is also key to their legal rights with employed individuals having substantial protection under employment law. Incorrect classification could leave a business open to litigation.

## What do I need to do?

Business owners should review their contractual relationships with existing and potential new self-employed workers, to ensure that they are being correctly classified.

This is a complex area. Often the distinction is not clear, and some cases may be borderline. Therefore, if you have any doubt about the classification between employed or self-employed, it is important to take professional advice.

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