

# Are your workers employees or not?

## Overview

For this explanation we'll use 'self-employed' to refer to contractors, vendors, suppliers or workers outside IR35.

Your workers can be employed or self-employed. Everyone will usually pay less tax if you hire self-employed workers. As a result, you need to ensure that each worker meets HMRC's criteria for self-employment.

HMRC will consider several different factors to determine employment status. There is no official weighting of importance. Written contracts are important in understanding the nature of the work, but implied working practices may also be taken into consideration.

Here are some of the main factors.

### Self-employed

Typically paid by invoice



Set their own hours and dates for work



Can hire and pay a substitute to service their clients



Buy their own equipment, products and software



Pay rent to the employer and/or share commission



Decide where they work (this may still be at the employer's premises)



Can accept or refuse work at their own discretion (mutuality of obligation)



Do not need to be given work by the employer (mutuality of obligation)



Can decide their own approach and workflows to servicing clients



Are not responsible for managing employees of the employer and may even have employees of their own



Can work for whoever they want without restriction



May generate their own clients



Are not entitled to company benefits



Bear financial risk: Can profit by more efficient working or on the other hand could even incur losses

### Employed

Paid only through payroll



Have a set number of hours/dates they must work each week



Cannot hire a substitute to do their work



Use equipment, products and software supplied by the employer



Earn an agreed salary and benefits



Cannot decide where they work



Must accept work given to them (mutuality of obligation)



Must be provided work by the employer (mutuality of obligation)



Must work within the processes and guidelines of the employer



May be responsible for managing other employees



Require authorisation to work for competitors



Rely on the employer to generate new work



Are entitled to company benefits



Little financial risk and paid regardless of how the work is done. Risk is usually limited to bonuses and commission

## Make a decision and document it

It's not black and white - workers will often meet the criteria for both approaches. Agreements should be drawn up with the above factors in mind.

You can also use HMRC's Check Employment Status for Tax (CEST) tool to find out if a worker on a specific engagement should be classed as employed or self-employed for tax purposes.

 [Check employment status for tax - GOV.UK](https://www.gov.uk/check-employment-status-for-tax)

HMRC will stand by the results as long as the information you give remains accurate.

# numble

 Accounting For The Exciting World of Small Business