

HMRC Responses to Employment Questions – September 2010



Questions from governing bodies and Coaching System Support Network (CSSN) partners on employment/deployment and self-employment were aired at a recent meeting with HM Revenue & Customs (HMRC), and the responses of HMRC are provided here. sports coach UK will build on the engagement with HMRC to ensure the information provided remains up to date.

Reference HMRC – ESM4503, Particular Occupations: Teachers, Lecturers and Tutors – National Insurance Contributions (NICs)

- There is currently no definitive definition of employment or self-employment within UK statute. Employment status (ie whether a worker is employed or self-employed) is not a matter of choice, agreement between parties or financial convenience, but dependent on the actual working arrangements in place. The onus is on the employer to correctly determine the employment status of all its workers, and to operate PAYE where evidence indicates employment.
- Questions on definitions are based on case law by HMRC state inspectors, on a case-by-case basis. As such, this is evolving all the time.
- HMRC's Employment Status Manual (ESM) provides guidance on all employment questions.
- Are sports coaches categorised as instructors (under ESM4503)?
 - Yes, sports coaches are categorised as instructors.
 - Changes to this ruling would probably require the sports coaching industry to lobby government for a new definition of coaching to be developed, separate to that of a teacher/instructor.
- ESM4503 explains why, how and when the Categorisation of Earners Regulations apply.

Self-employed Coach Status

- HMRC provides an Employment Status Indicator (ESI) service through which the status of a worker can be evaluated.
- HMRC will not accept the opinion offered by the ESI tool when it is the coach who has inputted the details.
- It is the responsibility of the organisation that will be paying the coach to use the ESI service to evaluate the employment status of that person.

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- Within the organisation that will be paying the coach, it is important the coach's direct manager uses the ESI and not the organisation's HR/personnel department.
- The coach's direct manager will know the working arrangements that are in place between them.
- It is important the employer/coach manager clarifies the facts of the relationship between them.
- A coach presenting their Unique Tax Reference Number (UTRN) is not accepted as proof of their self-employment status.
- The organisation paying the coach must check the employment status of the coach if they are not directly employed.

Self-employed Coaches

- It is important a coach's employment status (regarding employed v self-employed) is established on a case-by-case basis.
- A person can be both employed and self-employed at the same time.
- A coach may be employed while working for one organisation, but be self-employed doing similar work but under different working arrangements at another.
- There are key areas to consider when identifying if a coach's status is actually self-employed. These include, but are not restricted to:
 - financial risk
 - right of substitution
 - provision of major items of equipment and/or materials
 - their obligation to personally deliver.
- What does it mean to be self-employed?
 - What are your responsibilities as a self-employed coach/consultant (contracted but not employed)?
 - What are the responsibilities of the contracting party?
- In respect to VAT registration, if a coach is earning above £69,000 (gross) then they must register. Coaches can deregister if their earnings go below £68,000.
- The liability can be offset against purchase of items of equipment.

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- The VAT Guide Notice 700 and VAT Cash Accounting Notice 731 explain how and when offsetting can be done.

Guidance for Sports Coaches and Schools

- If a coach is not 'self-employed' they are employed, and will be paid through payroll of their employing organisation.
- It is important that the contractual agreement articulates the relationship between the two parties.
 - HMRC looks at the facts surrounding the working relationship when considering employment status.
 - They will also look at what happens in practice, in terms of the working relationship between the employer and the coach.
- Self-employed coaches are responsible for the delivery they undertake and, as such, should ensure they have their own appropriate insurance cover.

Appropriate Type of Contract

- sports coach UK will follow up with legal contacts to explore best-practice guidance on contract issues.
- In summary:
 - a contract of employment/service = for full-/part-time/casual employees
 - a contract for service = for the self-employed
 - a service-level agreement = for organisation to organisation.

Business Essentials and Other Training Packages

- Neither sports coach UK nor HMRC endorse specific training by other providers.
- It is important any training package that provides guidance in this area is based on the guidance provided by HMRC as the lead body in this area.