

The 'employed/self-employed' question

Employers need to be careful. If they engage someone to work for them, it is up to them to satisfy themselves as to the employment status of the worker.

If the worker is self-employed, then there is no need to operate PAYE and all payments can simply be made gross, on the terms agreed with the worker.

However, if the worker is an employee, PAYE applies and not only should PAYE tax and NICs be deducted from the employee's earnings but the employer is also liable for secondary NICs.

If the employer treats as self-employed someone who should in fact be categorised as an employee, the employer can find that not only are they liable to account for the tax and NICs they should have deducted, plus the secondary NICs, but that they are also liable in other ways.

Employers have faced difficulties over claims for unfair dismissal, etc, from people who, to save tax and NICs, had argued at the time they were engaged that they were self-employed.

Some guidance is available on classification from HMRC and we can also help by discussing individual cases.

Construction industry

The construction industry has a separate scheme dealing with contractors and sub-contractors. If this affects you, please contact us for advice.

How we can help you

We can help you maintain PAYE records, and ensure that your business is compliant with the PAYE and NIC regulations, providing peace of mind and allowing you to spend more time managing your business.

For further advice and assistance, please get in touch.

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Please contact us for further information

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PAYE and NICs

Pay As You Earn (PAYE) is a system overseen by HMRC under which employers deduct from employees' wages an amount of income tax, national insurance contributions (NICs) and student loan repayments, in accordance with PAYE codes, tables and other procedures laid down by HMRC.

The Real Time Information (RTI) rules require employers to report details of wages and deductions at or before the time of payment.

Employers must pay over the relevant tax and NICs (net of certain adjustments such as statutory sick pay) each month (or quarter where the expected average monthly amount is less than £1,500).

The PAYE code – the key to PAYE deductions

HMRC advises employers which PAYE code to operate for each employee. This code is the key to the amount of tax the employer will deduct from the wages, salary, pension, etc, each week or month.

Essentially, a positive code means that, in calculating the tax to be deducted each pay day, a certain amount is tax-free. The amount in excess of that is taxed at the appropriate tax rates of 20%, 40% or 45%.

A 'K' code applies where HMRC instructs the employer to add a notional amount to the wages, etc, with the effect that the tax deducted is more than would normally be due. A 'K' code would typically be used when an employee has another source of income to which PAYE cannot be applied – for example, a state pension.

A person's PAYE code might change several times over the course of a tax year, as new information comes to light about their entitlement to allowances and reliefs, or as moves are made to collect through PAYE tax which might otherwise have to be collected from the individual through self assessment.

The new employer

As soon as you take on an employee, you need to contact HMRC and ask them to set up a PAYE scheme for you/your business.

Upon registration, HMRC will send you guidelines, including a number of forms with which to operate the PAYE and NICs systems. To help you calculate the amount of tax and NICs due, HMRC provides online 'Basic PAYE Tools'. There are facilities to complete common forms on-screen and you can use the various calculators to work out PAYE tax and NICs etc.

All this may look complicated, and indeed operating a PAYE scheme can be challenging. Time spent running a PAYE scheme is also time you cannot spend making profits. We can help to ease the burden and provide peace of mind by operating your PAYE records for you.

Compliance visits

It is vital that you take the time to read and understand what is expected of you. HMRC inspection teams can visit you at any time to check that you are operating PAYE properly, and you can be liable for any under-deductions they find.

Again, we can help you prepare for compliance visits, to ensure that your business meets the regulatory requirements.

Software

As mentioned above, it is perfectly possible to use the Basic PAYE Tools but other software is available for those who would prefer to use it.

However, we would recommend that before you rely too much on the technology, you make sure you understand how PAYE works, so you can identify obvious errors. It is advisable to discuss your options with us before taking any action or investing in any software.

In this guide we look at two 'classes' of NICs (Class 1 and Class 1A) and two contributors (primary and secondary).

Class 1 NICs are the contributions calculated every week or month as a percentage of each employee's wages or salary. The employee is the primary contributor, and pays 12% of earnings between £162 and £892 per week and 2% of earnings in excess of £892 per week. The employer is the secondary contributor, and adds 13.8% of earnings over £162 per week. The employer rate is 0% for employees under 21 and apprentices under 25 on earnings up to £892 per week.

The liability to primary contributions ends at state pension age, but liability to secondary contributions continues until the employment ends.

Examples

2018/19

Jim is 45, earning £450/week	Jane is 45, earning £950/week
Jim's primary contributions:	Jane's primary contributions:
£162 @ 0%	£0
£288 @ 12%	£34.56
	£730 @ 12%
	£87.60
	£58 @ 2%
	£1.16

Jim's weekly NICs £34.56 **Jane's weekly NICs £88.76**

Secondary (employers') contributions:

Jim's employer	Jane's employer
£288 @ 13.8%	£39.74/week
	£788 @ 13.8%
	£108.74/week

Class 1A NICs are payable by employers only and are a contribution in respect of benefits-in-kind – company cars, for example.

While Class 1 primary and secondary contributions are calculated each week or month and paid over at intervals over the course of the tax year, Class 1A contributions are not calculated until after the end of the tax year, when the employer is required to complete returns of benefits-in-kind and expenses payments. Once those figures are compiled, the Class 1A contributions can be calculated and the NICs paid over.

The returns are due to be filed no later than the 6 July following the end of the tax year, and the Class 1A NICs are payable by 22 July or 19 July if paying by post.