



TAX FOR FREELANCERS

A guide for BECTU members

April 2016 edition

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Introduction

This booklet gives an outline of UK tax for BECTU members who are working on a self-employed basis. It concentrates on the issues which you are most likely to encounter. If you are working through your own limited company, most of this booklet does not apply to you, although there is some general guidance [here](#).

If you are working as an employee, then you should look at the separate BECTU booklet, *Tax for Employees*. If you sometimes work as an employee under PAYE and sometimes on a self-employed basis, you will need to consider both areas of taxation, so both booklets are relevant. If you are working through an agency, then [special rules](#) are likely to apply.

This booklet has sections on [income tax](#), the [cash basis](#) for small businesses, [employment status](#) (including the [special rules](#) for Film and TV), [National Insurance Contributions](#), [VAT](#) and [using a limited company](#).

There are many areas it doesn't cover – such as capital gains, rental income, overseas issues, inheritance tax, residence and domicile, tax credits and partnerships.

The booklet is designed to be used both in printed form and online. It contains hyperlinks which connect the different sections. There are also external links to other sites, especially the guidance given by HM Revenue & Customs ('HMRC'). If you find that any hyperlinks don't work any longer, please send BECTU an email.

Remember that tax is complex and changes often; this booklet only provides an outline of the position as at 6 April 2016: it should not be used instead of professional advice.

BECTU wants the booklet to be as useful as possible, so if you think of a way it could be improved, please let us know and we will consider it.

Information in this booklet provides only a general outline of the subjects covered. It should neither be regarded as comprehensive nor sufficient for making decisions, and it should not be used in place of professional advice. The author disclaims all responsibility for loss arising from any action taken or not taken by anyone using the information in this booklet

Tax Basics

General

This booklet is written for BECTU members who are working for themselves. It assumes you are self-employed. If you are unsure whether you are employed or self-employed see: [Am I self-employed?](#)

As a self-employed worker, you are required to [register](#) with HMRC. Failure to register can lead to penalties. Separate [registration](#) is required for VAT.

A self-employed person working in the UK normally pays [income tax](#) and [National Insurance Contributions](#) (NICs) on profits. You or your accountant first calculates your profits for accounting purposes, but different rules may apply for tax, so your taxable profit is not necessarily the same as your accounting profit. Taxable profits are what you have left after deducting [business expenses](#) from your taxable income.

If your turnover (total business income) is, or soon will be, above the [VAT threshold](#), you may have to charge [VAT](#) on the work you do.

Tax years

The year for tax purposes is not the same as the calendar year. Instead, it begins on 6 April and ends on 5 April. The current tax year began on 6 April 2016 and will end on 5 April 2017. Tax years are sometimes called 'fiscal years'.

Tax rates and thresholds often change at the start of a new tax year. Accounting years and tax years are often different, see [Accounting periods and tax years](#).

The cash basis

The cash basis was introduced from 6 April 2013. It is a simpler way for small businesses to work out their profits for tax purposes. Under the cash basis, money is only included for tax purposes when you have actually received it, and costs are only deducted when you have actually paid them. There is more about the cash basis, and how to start using it [here](#).

Years before 2013-14: the accruals basis

For years before 2013-14, you had to use the 'accruals' basis to work out your profits. This meant you had to include in 'income', not only the cash you had actually received, but amounts you had billed but hadn't been paid. If you were part-way through a job, you might also have to include an estimate of the value of the work you had done but hadn't yet invoiced.

The accruals basis is complicated and almost every small business had to obtain professional help from an accountant. You can still use the accruals basis if you choose to do so; the cash basis is optional.

VAT cash basis

The VAT rules have, for many years, allowed small businesses to account for VAT on a [cash basis](#). The rules for the VAT cash basis are different from those for income tax, so be careful not to get confused.

Income tax

Income tax is charged on the taxable profits from your freelance work. It is also charged on various types of other income, including [dividends](#), [savings income](#) and profits from [letting property](#). The first two of these are discussed in separate sections of this booklet; follow the hyperlinks for more information. There is some guidance about letting property on the [government website](#) and also [here](#).

Note that the tax rules in all three areas have changed recently and further changes to property tax are anticipated, so great care is needed.

Personal allowances

For the tax year 2016-17, no tax is charged on the first £11,000 of your income¹. This is your personal allowance. Pensioners may be entitled to a slightly higher personal allowance.

If your income is over £100,000, your personal allowance is gradually withdrawn so that for every £1 of extra income you lose 50p of your personal allowance.

¹ For 2015-16, the personal allowance was £10,600

Tax thresholds and bands

The 2016-17 tax thresholds and bands are as follows:

- Income between £11,000 and £43,000 is taxed at 20% (the basic rate). So the basic rate band is £32,000 (£43,000 - £11,000).
- Income between £43,000 and £150,000 is taxed at 40% (the higher rate). So the higher rate band is £107,000 (£150,000 - £43,000).
- Income of £150,000 and above is taxed at 45% (the additional rate).

However, this fairly straightforward position is now further complicated by the [personal savings allowance](#), the [savings rate](#) and the [dividend allowance](#), all of which are discussed in other parts of this booklet.

For more detail and the figures for the previous two years, see the government [website](#).

Accounting periods and tax years

Every business has to make up its accounts each year. You can choose when to start and end your accounting year. You don't have to use the fiscal year.

The normal rule is that you are taxed on the profits of your accounting year based on the tax year in which your accounting year ends, see the example Laura.

Example: Laura

Laura has been in business for many years. Her accounting year runs from 1 May to 30 April. Her profits for the accounting year ending 30 April 2014 were £40,000. This *ends in* the tax year 2014-15, so her profits for that tax year are £40,000.

Her profits for the accounting year to 30 April 2015 are £50,000. This ends in the tax year 2015-16, so her profits for that tax year are £50,000.

Special rules apply for the years you start up in business, and for the years when you finish. These are outside the scope of this Booklet, but there is some guidance from HMRC about the early years [here](#) and about cessations [here](#).

Savings income

Complicated rules apply to savings income (broadly, bank or building society interest), and those rules have also changed a lot recently.

For the tax year 2016-17 there is both a 'Personal Savings Allowance' and a '[starting rate for savings](#).' The position for earlier years is summarised [here](#).

The Personal Savings Allowance

From 6 April 2016, most people are entitled to a Personal Savings Allowance ('PSA'). The amount of your PSA depends on your '[adjusted net income](#)'. This is your total taxable income (including dividends) less certain tax reliefs, for example [gift aid donations](#) and [pension contributions](#).

- If your adjusted net income is up to £43,000, your PSA is £1,000, so you can receive £1,000 of savings income, tax-free.
- If your adjusted net income is between £43,001 and £150,000, your PSA is £500, so you can receive £500 of savings income, tax-free..
- If your adjusted net income is over £150,000, you have no PSA, so all your savings income is taxable.

The interaction between the PSA and the basic, higher and additional rate thresholds means that an extra £1 of income can cause you to lose part or all of your PSA, see the example [James and John](#) at the end of this section.

Starting rate for savings

- If your adjusted net income is below £17,000, any savings income included in that figure is not taxed at all, because the 'starting rate' of tax on savings income is 0%.
- The 0% rate applies to the £5,000 slice of savings income between the personal allowance (£11,000) plus the PSA (£1,000); in other words, it applies to savings income between £12,000 and £17,000.

- However, it *only* applies to savings income, so if your adjusted net income is £16,500, of which only £1,500 is savings income and £15,000 is profits from your self-employment, then:
 - £11,000 is tax free because of the personal allowance
 - £1,000 is tax free because of the PSA
 - £500 is tax free because of the 0% 'starting rate' for savings
 - £4,000 is taxable at 20% (the basic rate).
- If your non-savings income is £17,000 or more, you do not benefit from this 0% savings rate at all.
- If your non-savings income is below £17,000, but your adjusted net income is above £17,000, you may be entitled to have some of your interest income taxed at 0%.
- This is quite difficult to understand. It may help if you realise that the savings rate is intended to assist retired people who have a small pension (covered by their personal allowance) plus interest from deposits in the bank or building society or with National Savings. The savings rate doesn't usually help those working full time.
- But it may be useful if your spouse or partner is not working at all, or is working part-time. If savings are in the name of your spouse/partner, then he/she may benefit from the savings rate (and also from the PSA). But remember, if you transfer assets to your spouse/partner this is likely to have other consequences, particularly if you were to split up. In other words, a transfer of assets does not only take effect for tax purposes.
- There is more about savings income [here](#).

Receiving savings income without tax deductions.

Because of the PSA, many people will no longer pay tax on their savings income. As a result, from 6 April 2016 banks and building societies will pay their customers' savings income gross, in other words, without deducting tax. Previously, they

deducted 20% basic rate tax. This means that from 6 April 2016 you will receive your bank or building society interest without tax having been deducted.

If you do have to pay tax on some or all of that income, for instance because you are a higher or additional rate taxpayer, you should do this via [self-assessment](#).

Interaction between the [PSA](#), [savings rate](#) and [tax thresholds](#)

Because of the way the PSA interacts with tax thresholds, a £1 increase in income can produce an additional tax liability of over £100. The example James and John shows what happens where a person is at or around the higher rate threshold.

Example: James and John²

In 2016-17 **James** has adjusted net income of £43,000. Of this, £1,000 is savings income.

The [basic rate tax](#) threshold is £43,000, so James is a basic rate taxpayer. As a result his PSA is £1,000.

He is not entitled to the savings rate because his total non-savings income is £42,000. This is more than the limit of £17,000 so he cannot benefit from that 0% rate.

His savings income is taxed as follows:

£1,000 @ 0% = £0

Tax on James' savings income is £0

In the same year, **John** has adjusted net income of £43,001, including £1,000 of savings income. This means he is a [higher rate taxpayer](#), so his PSA is £500. Like James, he is not entitled to the savings rate because his non-savings income is more than £17,000.

His savings income is taxed as follows:

£500 @ 0% = £0

£499 @ 20% = £99.80

£1 @ 40% = £0.40

Tax on John's savings income is £100.20

² This example is based on one in the helpful guidance on this difficult topic produced by the very good charity, the Low Incomes Tax Reform Group ('LITRG'), which assists those on very low incomes with their tax difficulties. See www.litrg.org.uk/tax-guides/other-tax-issues/savings-and-tax#how.

Where a person is at or around the additional rate thresholds, there is a similar effect: even £1 of income over the £150,000 threshold means that the person will not benefit from the £500 PSA which is available to higher rate taxpayers.

It may be possible to eliminate this problem by giving money to charity and claiming [gift aid](#), or by making a [pension contribution](#). Both should reduce your adjusted net income and so bring it below the threshold at which the PSA changes. However, pensions in particular are complicated and specialist advice is recommended.

Earlier years

In 2015-16 there was no [PSA](#). The [savings rate](#) of 0% applied to the £5,000 slice of savings income between (a) the personal allowance for that year (£10,600) and (b) the limit of £15,600. Banks and building societies normally paid savings income net of basic rate tax.

In 2014-15, there was also no [PSA](#). The [savings rate](#) was 10% (not 0%) and the limit was £12,880 (not £15,600). Banks and building societies normally paid savings income net of basic rate tax.

Dividends

The rules for dividends are complicated and this section only sets out some of the basics. For example:

- it does not cover dividends from overseas companies, to which special rules may apply; and
- it only covers the current rules, not those for earlier years. The rules changed from 6 April 2016.

What is a dividend?

A company is owned by its shareholders, so each shareholder owns part of the company. If the company makes profits, the shareholders can take those profits out of the company as a dividend.

The dividend is paid out of after-tax profits, so the company has already paid tax on the money used to pay the dividend.

The taxation of dividends

Dividends are added to your other income and form the top slice of that income. For example, it comes after salary, profits and savings income. The tax you pay on the dividend depends on whether you are a basic, higher or additional rate taxpayer, and it works like this:

- The first £5,000 of dividend income is taxable at 0%. This is known as the dividend allowance.
- However, dividends within the dividend allowance still count towards the basic and higher rate bands.
- To the extent that the dividend is more than £5,000, and falls in the [basic rate band](#), it is taxed at 7.5%, known as the dividend ordinary rate,
- To the extent that the dividend is more than £5,000, and falls in the [higher rate band](#), it is taxed at 32.5%, known the dividend upper rate
- To the extent that the dividend is more than £5,000, and falls in the [additional rate band](#), it is taxed is 38.1%, the dividend additional rate.

This is quite complicated and easier to understand via an example, see [Caroline](#).

Although these dividend tax rates seem low compared to those on other types of income, which are 20%, 40% and 45%, as explained [here](#), remember that the company has normally already paid tax at the [corporate tax](#) rate on its profits, before they are paid out of the company as dividends. The corporate tax rate is usually 20%.

This means that, on profits of £1,000, a company will pay tax of £200, leaving £800 available for dividends. That £800 may then also be taxed again in the hands of the shareholder, depending on his or her marginal tax rate.

Example: Caroline

Caroline was employed as a set designer from April to June 2016 and was paid a salary of £6,000 a month, before tax and NICs, so earned £18,000.

On 1 July 2016 she formed her own limited company. In the period to 31 March 2017, the company made profits of £100,000 on which tax of £20,000 is due. This leaves £80,000 of profits available to be paid as dividends.

On 31 March 2017, Caroline is paid a dividend of £40,000.

Caroline's salary is treated as the first slice of her income. £11,000 is tax free because of her [personal allowance](#). The balance of £7,000 is taxed at the [basic rate](#) of 20%, so the tax is £1,400.

The [basic rate band](#) is £32,000. Caroline's salary has used £7,000 of that band, so she has £25,000 left. Of that, £5,000 relates to dividends covered by the dividend allowance taxable at 0%. That leaves £20,000 of dividends taxable at the dividend ordinary rate of 7.5%. Caroline therefore pays tax on £20,000 of dividends at 7.5%, or £1,500.

The balance of her dividends is £15,000. These are in the [higher rate band](#), and taxable at the dividend upper rate of 32.5%, or £4,875.

Caroline has tax to pay of £1,400 + £1,500 + £4,875 = £7,775.

In addition, the company paid tax of £10,000 on the profits out of which the dividends were paid, so the total tax is £17,775, of which part is paid by the company and part by Caroline.

There are some more examples at www.gov.uk/government/publications/dividend-allowance-factsheet/dividend-allowance-factsheet.

Starting up in business

Registration and record-keeping

When you first start up as self-employed, you must [register](#) with HMRC. You can do this online. If you fail to register, you may be charged a penalty.

You must also begin keeping records. HMRC provide [guidance](#) on what records you need to keep and for how long.

It is advisable to keep business records for five years from 31 January following the end of the tax year. So records for the tax year 2015-16 would be kept for five years from 31 January 2017, ie until 31 January 2022.

Filing self-assessment returns

Once you have registered with HMRC you'll need to complete a Self-Assessment (SA) tax return each year. You must file your SA return by 31 October after the end of each tax year if you are sending in a paper return, or by 31 January if you are filing [online](#).

So the SA return for the 2015-16 tax year must be filed by 31 October 2016 if on paper, and by 31 January 2017 if you are filing online. If you file late you are likely to incur [penalties](#).

When to pay the tax under SA

The normal tax payment date for the self-employed is 31 January after the end of the tax year. So the tax for the 2015-16 tax year has to be paid by 31 January 2017.

However, most self-employed people also have to pay a percentage of their tax in advance. This is called 'payments on account'. How it works is shown in Example ['Maria'](#).

You can pay your tax electronically or by other more traditional means. HMRC also provide [guidance](#) on this.

Maria

Maria started her business in May 2013. Her first year was thus 2013-14. The tax filing deadline is 31 January after the end of that tax year, so it was 31 January 2015.

Maria filed her SA return online, on 31 December 2014, in good time for the deadline of 31 January 2015. It showed that tax of £10,000 was due.

On 31 January 2015 she had to pay:

For the tax year 2013-14	10,000
First payment on account for 2014-15 (50% of the 2013-14 figure)	<u>5,000</u>
	<u>15,000</u>

On 31 July 2015 she had to pay:

Second payment on account for 2014-15 (50% of the 2013-14 figure)	<u>5,000</u>
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On 31 January 2016 Maria's 2014-15 tax calculation showed that her tax was £18,000. She has already made payments on account of £10,000, so she has a further £8,000 to pay.

In addition, she has to pay £9,000 (50% of £18,000) as a payment on account for 2015-16.

So her total tax payable on 31 January 2016 was £17,000 (£8,000 + £9,000)

It is a good idea to file your tax return before 31 January so that you know how much tax you will have to pay. If you wait until 31 January to file the return, and find that your tax is higher than you were expecting, you may not be able to pay it all. If you pay the tax late, HMRC may levy a [penalty](#) based on a percentage of the overdue tax, as well as late payment interest.

If you think you will be unable to pay all the tax by the due date, consider applying in advance of the due date for a 'Time to Pay' agreement by contacting the HMRC [business payment support service](#).

The cash basis for tax

Introduction

Since 2013-14 small unincorporated businesses have been able to work out their profits for tax and NICs purposes using what is called ‘the cash basis’³. For all earlier tax years, businesses had to use the ‘[accruals basis](#)’.

The cash basis isn’t compulsory but it is a lot simpler than the accruals basis. Before you can start to use the cash basis you need to check that your turnover is under the [threshold](#) – only small businesses can use the cash basis. You inform HMRC that you are using the cash basis by ticking box 8 on the self-employment pages of your tax return.

If you are already in business, and haven’t used the cash basis before, you need to [transition](#) from the accruals basis to the cash basis. You should also consider whether you want to use [fixed deductions](#) for expenses.

There is also a [cash basis for VAT](#) but it has different rules. Just because you use the cash basis for tax doesn’t mean you can necessarily use it for VAT, and vice versa. In this section of the BECTU guidance, the ‘cash basis’ means the cash basis for income tax.

How does the cash basis work?

The cash basis means that money is only included for tax purposes when you have actually received it, and costs are only deducted when you have actually paid them. If you are on the cash basis, you must use it for all trades or professions you carry out during that tax year⁴.

There are no capital gains or capital losses on business assets if you are on the cash basis⁵. Instead, you simply include your sale proceeds in your receipts.

³ ITTOIA, s 25A

⁴ ITTOIA s 31A(3)(b)

⁵ Taxation of Chargeable Gains Act 1992, s 47B

Who is allowed to use the cash basis?

You can start using the cash basis if your receipts for a given tax year are below the VAT threshold⁶. This is £83,000 for 2016-17 and was £82,000 for 2015-16. Note that these figures are to turnover not profits.

Once you are on the cash basis, you can stay on that basis until the year after your receipts reach twice the VAT threshold⁷.

These relatively high thresholds mean that many small businesses will always be able to stay on the cash basis.

If you are a recipient of Universal Credit⁸, you **must** use the cash basis for Universal Credit purposes and can also use it for tax as long as your receipts do not exceed twice the VAT threshold⁹.

You can use the cash basis if you are an individual ('sole trader') or work in a traditional partnership¹⁰.

You can't use the cash basis if you are a partner in a limited liability partnership (LLP), or fall into a small number of other categories¹¹. You also can't use the cash basis if you work through your own [limited company](#), although this may change in the future¹².

Moving to the cash basis

When you move to the cash basis, the law aims to ensure that income is not taxed twice (once on the old accruals basis and once on the new cash basis). Similarly, it also aims to prevent a double relief for costs¹³.

⁶ ITTOIA s 31A

⁷ ITTOIA s 31B.

⁸ For more on Universal Credit, see <http://www.dwp.gov.uk/policy/welfare-reform/universal-credit/>

⁹ ITTOIA s 31B(5). For 2014-15, twice the VAT threshold was £162,000, for 2015-16 it is £164,000

¹⁰ But not one including a corporate partner, see ITTOIA s 31C(2). The position of partners is not covered in this BECTU Booklet.

¹¹ ITTOIA s 31C

¹² See paras 1.29, 1.34ff of March 2016 report of the Office of Tax Simplification "Small company tax review www.gov.uk/government/uploads/system/uploads/attachment_data/file/504850/small_company_taxati_on_review_final_03032016.pdf

¹³ ITTOIA s 227A

If you have claimed [capital allowances](#) in the past, and have ‘unrelieved qualifying expenditure’ which you are carrying forward – money you have spent but which you haven’t yet been able to deduct in your tax returns – you can deduct this unrelieved expenditure in the first year of the cash basis¹⁴.

Receipts and costs

Generally, you will need to include in your taxable income all amounts received from your self-employed work. This includes cash, cheques, bank transfers, card payments, insurance receipts from business claims and any money from selling an asset used in your business. Don’t include money received as a loan.

You deduct payments you make in order to do your work, such as for equipment, rent, heating etc. However, note that:

- interest is only allowed up to a maximum of £500¹⁵.
- If you work from home, either use a [fixed deduction](#) or [apportion the cost](#).
- You deduct the cost of most business assets in full, so you don’t claim [capital allowances](#)¹⁶. But this rule doesn’t apply for cars¹⁷. You can either claim [capital allowances](#) or [fixed deductions](#) for cars.
- Because you have only included cash received in your taxable income, you can’t deduct bad debts or doubtful debts¹⁸.
- You also can’t deduct the cost of entertaining or most gifts¹⁹.
- If you make a loss, you can carry it forward for one year; you can’t carry it back or obtain sideways relief²⁰.

Interactions with VAT

If you are not VAT registered, you include in your costs any VAT which forms part of the price you have paid for goods and services.

¹⁴ Capital Allowances Act 2001, s 240C

¹⁵ ITTOIA s 57A

¹⁶ Capital Allowances Act 2001, s 1(4)

¹⁷ ITTOIA s 33A(1)(b)

¹⁸ ITTOIA s 32A

¹⁹ These are also disallowed under the accruals basis.

²⁰ Income Tax Act 2007, s 74E

If you are VAT registered, HMRC say²¹ that you can either:

- exclude the VAT you charge on your invoices from your income, and also exclude the VAT on your inputs from your costs; or
- include the VAT you charge on your invoices and include the VAT you incur on your costs.

One benefit of using the first method is that you have a lower turnover, so it is easier for you to stay under the cash basis threshold.

Leaving the cash basis

You have to leave the cash basis in the year after the one in which your receipts exceed twice the VAT threshold for that previous year²². If, exceptionally, your receipts in the following year are below the VAT threshold (not below twice the threshold) you can remain in the scheme.

You can choose to leave the cash basis if there is 'a change of circumstances' which makes it 'more appropriate' to move to the [accruals basis](#)²³. HMRC say that an example of such a change would be if you wanted to claim tax relief for more than £500 of interest, or make a type of loss claim which is not allowed on the cash basis²⁴.

When you leave the cash basis, there may be adjustments between the cash and accruals basis. This 'adjustment income' can be spread over a six year period, if you so choose.²⁵ If it is capital expenditure, it may be eligible for capital allowances²⁶.

There is more guidance on the cash basis [here](#).

²¹ [BIM70010 - Cash basis: eligibility](#)

²² ITTOIA s 31B

²³ ITTOIA s 31D

²⁴ See [BIM70055 - Cash basis: leaving the cash basis](#)

²⁵ ITTOIA s 227A together with s 239A and 239B

²⁶ Capital Allowances Act 1991, s 66A

Expenses

Allowable expenses

The self-employed are taxed on profits – trading income less allowable expenses. But remember that special rules may apply if you work through an [agency](#) and that the position is different if you use your own [limited company](#).

Your allowable expenses are money you have spent wholly and exclusively to earn the profits. They might include:

- Travel to and from your engagements – such as rail fares, petrol and parking costs. But the costs of travel to a regular place of work are not allowable, see [travel and the Samadian](#) case.
- Overnight accommodation away from your normal base
- Accountancy and legal fees
- Insurance
- Advertising
- Interest and charges on loans to buy business assets
- Interest and charges on a business credit card
- Stationery, postage and office expenses
- Rent, rates, power costs (see [household expenses](#))
- Repairs of equipment used for the business
- Salaries of staff (but if you are paying a partner or relative, the rate of pay should be no more than the amount you would pay an unrelated third party for the same work)

Some genuine business expenses are not allowable. For example, the costs of business lunches or gifts are not normally allowed for tax purposes²⁷.

Travel and the *Samadian* case

If you have a base at home, but travel on a regular basis to one or more other workplaces, you cannot claim the cost of your travel or any related accommodation and subsistence, see the judgment of the Upper Tribunal in *Samadian*²⁸. If you

²⁷ Income Tax Trading and Other Income Act (ITTOIA), section 45

²⁸ *Samadian v R&C Commrs* [2014] UKUT 0013

have claimed for this sort of travel in the past, you should discuss the position with your accountant.

Part-business, part-private: household expenses

You can't deduct personal expenses for tax purposes. However, if you have spent money partly for business and partly for your private benefit, you may be able to claim a [fixed deduction](#) or else apportion the cost. For example, many of the bills for household expenses cover both business and private use. The part of the cost attributable to business use is allowable²⁹.

There are a number of different ways to work out the share of household bills which can be deducted for tax. These include time, floor area, or number of rooms. HMRC have provided some useful [examples](#).

Fixed deductions for expenses

Since 2013-14³⁰, you have been able to use the following fixed deductions instead of working out the actual costs:

- Business mileage for cars and vans at 45p per mile for the first 10,000 miles (per year) and then at 25p per mile³¹. You can't claim these fixed deductions if you have already claimed [capital allowances](#) or other relief on the vehicle expenditure³².
- Business mileage for motor bikes at 24p per mile³³.
- Business use of home³⁴. Add a fixed amount to your deductible costs for each month, depending on the number of hours you spend 'wholly and exclusively' on work done at home each month:
 - 25-50 hours per month £10
 - 51-100 hours per month £18
 - 101 hours or more per month £26

²⁹ ITTOIA s34 (2)

³⁰ HMRC may agree that they can be used for earlier years.

³¹ ITTOIA s 94F

³² ITTOIA s 94E

³³ ITTOIA s 94F

³⁴ ITTOIA s 94H

- Private use of premises used mainly for the business³⁵. This works the other way round. You claim all the costs as a deduction and *add back* the following monthly amounts:
 - 1 occupant £350
 - 2 occupants £500
 - 3 or more occupants £650

These fixed deductions can be used by everyone³⁶, whether or not you are on the [cash basis](#).

Purchase of assets

The tax treatment of money spent on assets for the long-term benefit of the business depends on whether you are on the cash basis or the accruals basis.

If you are on the [cash basis](#), you can deduct the cost of most business assets when working out your profits. A key exception is the cost of cars – you must either claim a [fixed deduction](#) or else [capital allowances](#) (usually after apportioning between business and private use).

If you are on the [accruals basis](#), you can't deduct the cost of business assets – such as new camera equipment – from your business profits, or depreciation on those assets. Instead you have to consider whether you can claim 'capital allowances'.

Capital allowances

You must first check if your asset qualifies for capital allowances. Furniture, computers, fax machines and equipment used for your business, are classified as 'plant and machinery' and so qualify for a generous capital allowance, called the annual investment allowance (AIA).

For expenditure from 1 January 2016, the AIA allows you to deduct up to £500,000 of plant and machinery expenditure from your profits³⁷. So if, for example, you buy a new computer for £2,000, you can deduct £2,000 from your trading income.

³⁵ ITTOIA s 94I

³⁶ But not partners in a partnership which includes a corporate partner, see ITTOIA s 94C

For expenditure between 6 April 2014 and 31 December 2015, the maximum was £250,000. A lower figure applied previously.

Note that different capital allowance rules apply to cars, and as the car is also likely to be used partly privately, the allowance is restricted.

There is some [guidance](#) on the gov.uk website, but capital allowances are complex and you are likely to need the help of a tax adviser.

³⁷ Capital Allowances Act 2001, s 51A(5)

National Insurance Contributions

The self-employed

The self-employed pay two sorts of National Insurance Contributions (NICs): a flat rate Class 2 contribution, and a profit-related Class 4 contribution. However, at Budget 2016 the Chancellor announced that Class 2 NICs are to be abolished from April 2018 and be replaced by a new contributory benefit test.

The figures in this section are those for 2016-17. HMRC provide the equivalent amounts for previous years [here](#).

Class 2 NICs

When you start your self-employment, you have to [register for tax](#). This also includes registration for Class 2.

Paying Class 2 gives you 'qualifying years' for the basic state pension, maternity allowance and bereavement benefit. But Class 2 NICs do not count towards jobseekers allowance or Statutory Sick Pay.

Class 2 NICs are charged at a flat rate of £2.80 per week. You don't have to pay Class 2 if your profits are below £5,965 for the year³⁸.

For 2015-16 onwards, Class 2 NICs will be collected under [self-assessment](#) as part of the balancing payment due in the January following the end of the tax year. So the payment for 2015-16 will be due in a single amount on 31 January 2017.

You don't have to pay Class 2 from the week following that on which you reach [state pension age](#).

Class 4 NICs

In 2016-17 you pay Class 4 NICs at 9% on all profits between £8,060 (the 'primary threshold') and £43,000 (the 'upper earnings limit'). There is no relationship

³⁸ See <https://www.gov.uk/self-employed-national-insurance-rates>

between the threshold for starting to pay Class 4 and the threshold for paying tax (the [personal allowance](#)). HMRC provides the figures for previous years [here](#).

Once your earnings reach £43,000, your Class 4 NICs drop to 2% on all taxable profits above that upper earnings limit. This is the same point at which you move from [basic rate tax](#) to [higher rate tax](#).

Class 4 is collected along with your income tax, using the self-assessment mechanism. That also means you have to pay a Class 4 [payment on account](#), just as you do for tax. If you fill in your tax return [online](#), the HMRC computer will calculate your Class 4 NICs for you. You stop paying Class 4 in the tax year after the one in which you reach [state pension age](#).

Class 4 NICs do not give you any entitlement to benefits and are basically just an extra tax.

NICs on employment and self-employment

Employees pay higher NICs than the self-employed. In 2016-17 they pay Class 1 NICs at 12% on earnings between £8,060 and £43,000, and then a further 2% on earnings above that. In addition, employers must pay Class 1 employers NICs at a rate of 13.8% on the earnings of all employees above £8,060, with no upper limit. However, employers may benefit from an [employment allowance](#) which may reduce or even eliminate their NICs.

The NICs difference between employment and self-employment is one of the reasons why it is very attractive for individuals to be self-employed, and why engagers may prefer to take people on a self-employed rather than an employed basis. However, HMRC may challenge you and/or your engager if they think you should really have been classified as an employee, see '[Am I self-employed](#)'.

Outline of self-employment

Tax and National Insurance differences

For tax purposes, individuals are either employed or self-employed. Being self-employed rather than employed means you receive your income without deduction of Pay As You Earn (PAYE). This gives you a cash flow advantage over employees.

You can also deduct more [expenses](#) from your income, so pay tax on a lower amount. You will pay lower [NICs](#) than employees, but as a result you are likely to be entitled to fewer benefits if you are out of work.

It is up to you to [register](#) as self-employed, and you pay tax via [self-assessment](#) rather than under PAYE. Some self-employed people operate via a [company](#), which may provide other advantages, including tax planning opportunities.

If you supply your services via an [agency](#), you may be within the tax agency rules. These rules may deem you to be employed by the agency for tax and NICs purposes even if you are self-employed under the normal status tests. This means that you may be treated as an employee, and subject to PAYE and employee NICs.

Employment law

Being self-employed gives you tax advantages compared to employees, but employees have more legal protection. In particular, employment law gives employees the right not to be unfairly dismissed. This protection is not available to the self-employed.

Employment law also recognises an intermediate category of 'worker', which does not exist in tax law. You are a 'worker' if you have to provide your services personally (ie you cannot send a substitute to do the work instead), and are not 'in business on your own account'. Workers have the right to holiday pay, pension contributions and the national minimum wage ('NMW').

It is possible to be both self-employed for tax purposes, and a worker for employment law purposes. That means you have the tax and NICs advantages of self-employment but also are entitled to holiday pay, pension contributions, the NMW and certain other protections arising from your status as a worker. For more about the employment law rights of workers, see the [entitledto](#) website. If you don't know whether you are employed or self-employed, see '[Am I self-employed.](#)'

Am I self-employed?

Case law status tests

Being self-employed has consequences for tax, [NICs](#) and [employment rights](#) purposes. But there is no clear definition of what makes someone employed or self-employed. Instead, there is a complex collection of employment law and tax law decisions made by the courts. From this case law various principles have been established, which are known as [status tests](#).

If you satisfy the status tests, you are self-employed, and if you do not, you are employed. There is a grey area between the two where a person could be classified as either, depending on the importance a court gives to various factors.

However, if you supply your services via an agency, you may be within the [tax agency](#) rules. These may deem you to be employed by the agency for tax and NICs purposes and normally take priority over (a) the normal status tests including the [Lorimer](#) case and (b) the special Film and TV rules (including the [grade list](#) and the [7 day rule](#)) which are set out below.

The employment status indicator (ESI)

The status tests are complicated. HMRC have provided a helpful [online test](#) (called the 'employment status indicator') which you can take to see if you are self-employed. If your engager completes this online test honestly, and the outcome says you are self-employed, your engager can rely on this outcome if there is a later investigation into your status by HMRC. If you complete the ESI, rather your engager, HMRC say that the test is 'indicative'.

The ESI is anonymous. The computer allocates a ten digit ESI reference number (look for it in the top left of the screen). When you/your engager have completed the ESI, you/your engager should print or save copies of the 'Enquiry Details' screen and the 'ESI Result screen', showing the ESI reference mentioned above. If your status is questioned in the future, HMRC will only be bound by the ESI outcome if these copies can be produced. Remember that if the person who completes the ESI is you rather than your engager, HMRC are not necessarily

bound by it. And the ESI does not take into account the [agency](#) rules, so it won't help you decide whether those rules apply.

Self-employed grades in film and TV

Because of the grey area between employment and self-employment, and because the status tests are complex, HMRC have tried to make things simpler for those working in film and TV. Their Film Industry Unit (FIU) has produced a booklet called [Film, Television and Production Unit Guidance Notes](#)³⁹.

The FIU guidance provides engagers (such as the BBC and other film or TV companies) with a list of '[self-employed grades](#)'. If your job is within one of these grades, you don't need to worry about the case law, you can rely on the list of self-employed grades.

If your grade is not on the FIU list, that doesn't mean that you are an employee. Remember that the grade list is a shortcut for HMRC and engagers. It isn't the law. You are still entitled to assess your own employment status using the status tests, either with the help of a tax specialist or using the [ESI](#).

However, if your services are supplied to the film or TV company via an [agency](#), then, as stated earlier, those rules will normally take priority over the special Film and TV rules, including the grade list.

Lorimer Letters

If you work in film and TV, but are not in a 'self-employed grade', you may nevertheless be given a 'special authority letter' by the [FIU](#). These special letters are also known as 'Lorimer Letters' or 'LP10' letters.

If you have a Lorimer Letter, you are accepted as self-employed, so no PAYE or NICs are deducted from your earnings. This applies to all engagements for as long as the letter is valid. So you can take the letter with you from job to job. For more on this topic, including how to get a Lorimer Letter, what happens if your letter is out of date, or HMRC refuse to give you a letter, see [Lorimer Letters](#).

³⁹ This guidance is currently in HMRC's archive but BECTU are asking that it be restored and put on the new gov.uk site, to which most of the HMRC guidance has migrated.

In addition to Lorimer Letters, FIU also Issue 'specific opinion letters' (previously called 'specific authority letters') which relate only to a single engagement, so can't be taken to your next job. These depend on your individual circumstances.

7 day rule

If you work in film or TV, HMRC will also allow you to be paid gross, even if your grade is not on the self-employed list and despite the fact that you do not have a Lorimer Letter – as long as your engagement is for 6 days or less. This is known as the '7 day rule' and is set out in HMRC's [Film Industry Guidance](#) at paragraph 2.3.

The 7 days include weekends or breaks. The rule does not apply if, at the time of your engagement, it is known that you will be re-engaged at a later date by the same company and the total period is more than six days, or if there are arrangements for you to be re-engaged 'frequently or at regular intervals.'

HMRC say that the purpose of the 7 day rule is to prevent you having too much tax deducted from a succession of engagements under the PAYE system. They also say that Rule does not apply for National Insurance purposes so [Class 1](#) (employee) NICs may still be payable.

However, if you often make use of this 7 day rule, it would be surprising if you did not qualify for a Lorimer Letter. HMRC accept that the reason for the rule is that 'many employed workers in the Film, Production & TV Broadcasting Industry have short engagements with a succession of different employers' – in other words, for the same reason that Mr Lorimer was held by the courts to be self-employed. See [Lorimer Letters](#) for more on the background to Mr Lorimer's case.

If your services are supplied to the film or TV company via an [agency](#), those rules will normally take priority over the special Film and TV rules, including the 7 day rule.

Disagreeing with HMRC

Because the rules about employment status are not clear cut, you and your adviser may be confident that you are self-employed, but HMRC may disagree. Or your

engager may not be prepared to accept that you are self-employed, because your grade is not on the list and you do not have a Lorimer Letter.

If you continue to disagree with HMRC, you have a right to [appeal](#) to the First-tier Tax Tribunal. It is suggested that you obtain advice from a tax specialist before doing so. BECTU would like to know if you are planning to taking legal action so we can consider whether we can help.

Status tests

Note: Before you read this page, you are advised to read [‘Am I self-employed’](#).

The status tests are not found in legislation, but have been developed over time as cases have been argued in the courts. They are not fixed, but change as society develops. They are the main way in which the question of whether you are employed or self-employed is decided.

However, remember that special rules apply if you are working through an [agency](#). Those rules may deem you to be employed by the agency for tax and NICs purposes even if you would be self-employed under the normal status tests. The rest of this section assumes you are not working through an agency.

In business on your own account

The simplest way of deciding whether you are employed or self-employed is to answer the question: are you in business on your own account?⁴⁰ If you are running your own business, and can demonstrate that you have business premises (which can be a part of your home) and equipment; that you market your business and have a client base, you are likely to pass this test.

However, if you don't have all the trappings of a business, you can still be self-employed. In other words, this is a one-way test: if you pass, you are self-employed; if you don't, you need to consider the other status tests. The main ones are set out below.

Personal service and substitution

If you do not have to do the job personally, but can send a substitute, you are not an employee⁴¹. This is because personal service is an essential ingredient of employment. However, simply putting a substitution clause in your contract is not a magic wand – the right to send a replacement must be real⁴².

⁴⁰ *Market Investigations Ltd v The Minister of Social Security* (1968) 2 QB 173

⁴¹ *Express and Echo Publications Ltd v Tanton* [1999] IRLR 367

⁴² *Autoclenz v Belcher* [2011] UKSC 41

If the right to send a substitute is limited – so that, for example, you can only send a substitute from a list of approved people, and/or the engager pays the substitute, this isn't sufficient, on its own, to make you self-employed⁴³.

Hiring staff

If you have your own employees or sub-contractors, you are very likely to be self-employed⁴⁴.

Control

The level and type of control exercised by your engager over you is a key factor in deciding whether you are employed or self-employed.

The leading case law⁴⁵ says that you are an employee if you are subject to the control of your engager 'in a sufficient degree to make that other master'. It also says that rights of control are divided into control as to *how, when, where or what* is done - and all of these may need to be considered.

Because control is a question of degree, it is not a black and white test. You have to weigh up the amount and type of control which your engager exercises and see if it is sufficient to make you self-employed.

The more freedom you have as to where and when you carry out your work, and as to how you do it, the more likely you are to pass this test. But in some cases the location of the work, and the time at which you have to carry it out, are an intrinsic part of the work, and the 'control as to where' and control as to when' tests may then be irrelevant. So if, for example, you are engaged to do the lighting rig for a particular programme, the time and place are fixed by the nature of the job, and do not help to decide the employment/self-employment question. HMRC give useful guidance on the control tests in their Employment Status Manual at [ESM0518](#) through to page [ESM0529](#). The examples at pages [ESM0525](#) and [ESM0527](#) are particularly helpful.

⁴³ *MacFarlane and Skivington v Glasgow City Council* [2000] EAT/1277

⁴⁴ *Australian Mutual Provident Society v Chaplin and Another* [1978] 18 Australian Law Reports 385 and accepted as an authority by the Privy Council in *Narich Pty Ltd. v. Pay-Roll Tax Commissioner* [1984] ICR 286

⁴⁵ *Ready Mixed Concrete (South East) Ltd. v. Minister of Pension and National Insurance* [1968] 2 QB 497

Financial risk and opportunity to profit

If you are paid on a fixed fee basis rather than at an hourly rate - so you can make more money if you carry out your task quickly, and stand to lose money if you take longer than you expected – you are almost certainly self-employed⁴⁶. However, the reverse is not true – if you are paid an hourly rate, that doesn't mean you are an employee. Many self-employed people, such as solicitors and accountants, are paid on a time basis.

If you can negotiate the terms on which you work, you are more likely to be self-employed – most employed people have limited or no freedom to negotiate the terms of their contract, but accept or reject the job which is offered.

Being paid only after you have sent the engager an invoice means that you are taking on more risk than employees, and is an indicator of self-employment.

Equipment

If you provide significant equipment which is essential to carry out your task, you are probably self-employed⁴⁷. If you only supply 'small tools' this is a neutral factor, ie it is unlikely to help decide the question one way or the other⁴⁸.

Part and parcel

The 'part and parcel of the organisation' test means that you are more likely to be an employee if you are integrated within the organisation where you work⁴⁹ – for instance, because employees of your engager report to you, you conduct appraisals, go on team-building events and/or attend employee functions⁵⁰. None of these on their own is sufficiently weighty to decide the question of whether you are an employee or self-employed, but they will be considered as part of the picture.

⁴⁶ *Global Plant Ltd v. Secretary of State for Social Services* [1972] 1 QB 139

⁴⁷ *Humberstone v Northern Timber Mills* [1949] 79 CLR

⁴⁸ *US v Silk* [1946] 331 US, quoted with approval in *Ready Mixed Concrete (South East) Ltd. v. Minister of Pension and National Insurance* [1968] 2 QB 497

⁴⁹ *Stevenson, Jordan & Harrison v MacDonald & Evans* [1952] RPC 10.

⁵⁰ *Future Online Ltd v Faulds* [2004] STC (SCD) 237 and *Castle Construction (Chesterfield) Ltd v Revenue and Customs Comrs* [2009] STC (SCD) 97

Lots of engagers – the *Lorimer* case

Even if you don't meet the status tests set out above, you are likely to be self-employed if you have a lot of clients for whom you carry out work, see [Lorimer Letters](#).

Lorimer Letters

Note: Before you read this page, you are advised to read [‘Am I self-employed’](#).

If you have a Lorimer Letter, HMRC accepts that you are self-employed, so no PAYE or NICs are deducted from your earnings. This applies to all engagements for as long as the letter is valid. So you can take the letter with you from job to job.

However, remember that special rules apply if you are working through an [agency](#). Those rules may deem you to be employed by the agency for tax and NICs purposes even if you would be self-employed under the normal status tests. This means that you may be subject to PAYE and employee NICs. The rest of this Chapter assumes you are not working through an agency.

Employment status in film and TV: the *Lorimer* case

Whether you are employed or self-employed for any engagement depends on a range of factors, including the amount and type of [control](#) over you, the [equipment](#) you provide and the extent to which you take [financial risk](#) (such as by quoting a fixed price for the job or by invoicing rather than being paid via the payroll). These [‘status tests’](#) have been developed over time by cases going through the UK courts.

For many BECTU members, the leading case is *Hall v Lorimer*⁵¹. Mr Lorimer was a vision-mixer who worked for a large number of clients. HMRC argued that Mr Lorimer was employed, largely because the production company ‘dictates the hours to be worked, where he shall work, the date he shall work’.

The judge rejected this, saying Mr Lorimer was ‘independent of a particular paymaster for the exploitation of his talents’ and that the ‘most outstanding feature’ of the case was that Mr Lorimer worked for a large number of companies (increasing from 5 in the first year to over 20 by the third year).

After Mr Lorimer won his case, HMRC changed their [guidance](#). The same approach is reflected in the [Film Industry Guidance](#), which says (at 2.2):

⁵¹ (1993) 66 TC 349

‘where a worker has a business structure that includes a number of separate, short engagements, a worker may be regarded as self-employed, even though each of his engagements, viewed in isolation, would suggest that he was an employee.’

It is difficult for engagers to know whether an individual has this general pattern of short engagements. If the engager gets the employment status wrong, HMRC might pursue him for unpaid PAYE and NICs.

To help engagers, HMRC’s Film Industry Unit ([FIU](#)) issue two sorts of ‘Authority Letters’. If an engager takes on someone with an Authority Letter, he doesn’t need to worry about checking that person’s employment status himself – he can simply rely on the Authority Letter.

Specific opinion letter

The first type of Authority Letter is known as a ‘specific opinion letter’, or simply a ‘specific letter’. These are issued to individuals working in a grade not normally recognised as self-employed in accordance with HMRC’s published [list](#) of self-employed grades. In those cases the worker has ‘successfully demonstrated to the Inland Revenue that self-employed status may be granted for this particular engagement only.’ This booklet doesn’t give any guidance about ‘specific’ letters, as obtaining them depends on the facts of each case.

Lorimer Letter

The second type of Authority Letter is the ‘special letter’, often called a ‘Lorimer Letter’. These are issued to workers who, although not usually working in a grade which HMRC have [accepted as self-employed](#), have satisfactorily demonstrated that their overall pattern of activity amounts to self-employment.

If you are self-employed in the same way as Mr Lorimer (but don’t fall within one of the HMRC approved grades), it is obviously very helpful to both you and your engager if you have a Lorimer Letter. You are paid gross and don’t have PAYE and NICs deducted, and your engager doesn’t have to worry about employment status for tax.

How do you get a Lorimer Letter?

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You need to provide the [FIU](#) with evidence to show that your position is similar to Mr Lorimer's, or that you meet other key self-employment [status tests](#). Good evidence would be:

- The number of different engagers you had over a given period, and how long you worked for each of them.
- How far apart the different engagements are geographically and how much it costs you to get to each one.
- Information about how you run your business, including marketing, office equipment, website etc.
- Details of any equipment you own or lease, which you use for your work.
- How your pay for the work is decided: is it negotiated by you or your agent? Is it a fixed fee irrespective of how long the work takes? Is it an hourly rate?
- How you are paid: do you send in invoices or does the engager pay you without you needing to invoice?
- Whether you are hired to do a specific task so that you can leave when it is finished, or whether the engager can require you to do other jobs while you are there.

You are likely to get a Lorimer Letter if you meet some or all of these criteria:

- Have a lot of different engagers
- Work for a short time for each
- Spend time and money travelling to the sites
- Run your business in an organised way
- Own or lease equipment you use for your work
- Negotiate your rates. Fixed fee is very strong evidence of self-employment, but many self-employed people are paid an hourly rate
- Are paid by invoice
- Are hired to do a specific task and can't be required to do other jobs.

Things to watch out for with Lorimer Letters

Getting the Lorimer Letter isn't enough on its own. You need to be careful about the following:

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1. The letters are valid up to a certain date. Once upon a time they were open ended, but more recent letters all have an end date. You need to renew your letter in good time – if the Letter goes out of date, it will cease to be valid.
2. HMRC will only backdate a Lorimer Letter to the beginning of the month in which you apply. So if you apply for a Lorimer Letter on 15 May 2016, and FIU provide one, the letter is only valid from 1 May 2016. HMRC currently refuse to backdate letters to any earlier date, even if you provide evidence that your manner of working etc. was the same before the start date of the letter. (Note that BECTU don't agree with this approach – in our view, if the evidence of self-employment for the earlier period is clear, then the [FIU](#) should backdate the letter – refusing to do so causes all sorts of problems, including for VAT. These are discussed below).
3. The Lorimer Letter can only be used for engagements which are expected to last for ten days or fewer. This isn't necessarily ten consecutive days. If the engagement looks as if it will stretch beyond the ten days, your engager – not you – must call HMRC and ask for their agreement that you can continue to be treated as self-employed. Your engager will need your full name and NI number, and the serial number on the Lorimer Letter. HMRC also require brief details of the nature of your engagement.
4. If you have lots of short engagements with the same engager, the Lorimer Letter may cease to be valid – again, it is advisable for the engager to check with HMRC, giving the same details as set out in the above paragraph.

Am I an employee if I don't have a Lorimer letter?

People sometimes think that if you don't have a Lorimer Letter, you are an employee. Others think that FIU requires engagers to treat every freelancer as an employee if they don't have an Authority letter, and don't fall within one of the approved grades.

Neither of these is correct. If you are carrying out your work on a self-employed basis, and meet the [status tests](#) and/or operate like Mr Lorimer, you are not engaged under a contract of employment.

It doesn't matter that you don't have a Lorimer Letter. Those Letters don't make you self-employed, they just show the engager that HMRC has checked your employment status, so the engager doesn't have to worry about it.

For instance, you may simply have forgotten to revalidate your letter for a month. That doesn't mean you have become an employee for that month. You remain self-employed and are entitled to recover the extra tax and NICs deducted by the engager.

What should the engager do if I don't have a Lorimer Letter?

Without a Lorimer Letter, your engager should himself check whether you are employed or self-employed using the normal [case law tests](#), including the decision in [Hall v Lorimer](#). He can also use the online [Employment Status Indicator](#), and rely on the outcome, as explained [here](#).

Your engager should not treat you as an employee just because you don't have a Lorimer Letter. Treating you as an employee when you are really self-employed causes all sorts of problems, for instance for [VAT](#). The [Film Industry Guidance](#) opens by reminding engagers that 'it is your responsibility to correctly determine the employment status of your workers.'

If you don't have a Lorimer Letter but are sure you are working on a self-employed basis, one possible solution is for you to provide the engager with an indemnity. This allows him to recover the PAYE and NICs from you if, as a matter of law, you are not self-employed. The indemnity should be properly drafted with legal advice and form part of your contract. It should also include a clause allowing you to [appeal](#) a subsequent HMRC employment status ruling.

Can I get the PAYE and NIC deductions reversed?

If the engager has already deducted PAYE and NICs from your gross pay, you may be able to persuade him to reverse these deductions. You should explain to the engager that you are genuinely self-employed, and should be paid gross. HMRC provide advice to the engager on how to reverse wrongly deducted PAYE and NICs⁵². You may want to offer an indemnity (see above for more on indemnities).

⁵² See www.hmrc.gov.uk/payerti/reporting/errors.htm under 'correcting errors'

How do I get the tax back?

If the engager is unable or unwilling to reverse the PAYE deductions, you need to use the [self-assessment](#) (SA) system.

All self-employed people have to complete an SA tax return, but there is no place on the 'self-employment' pages for this sort of wrongly categorised income. The best place to put it is in Box 16 on page TR3 in the main part of your return. This box is called 'other taxable income – before expenses and tax taken off'. Put the gross amount you have been paid in this box.

Then put any expenses relating to this income, such as travel, equipment hire etc. in box 17, and the PAYE deducted in box 18. Then explain what you have done in box 20, or in box 19 on page TR7 – the 'any other information' box.

This solution isn't perfect – your self-employment income is understated, which may mean that other tax provisions don't work properly - and there will also be a mismatch with your accounts.

HMRC may also open an enquiry to check whether you are right to believe you are self-employed. So before you do this, it is sensible to check with a qualified tax specialist who is familiar with employment status, whether you are likely to succeed in claiming you are self-employed.

How do I get the NICs back?

If the engager is unable or unwilling to reverse the NIC deductions made from your payments, the first step is to work out how much [Class 4 NICs](#)⁵³ you would have paid on your taxable profits if the engager had treated you as self-employed. This isn't straightforward, because Class 1 NICs are payable on a weekly or monthly basis, and Class 4 on an annual basis.

If the NICs deducted by the engager are more than the Class 4 NICs, you can write to HMRC and claim a refund⁵⁴. Be sure to state in your letter that the NICs were deducted in error by the engager from your self-employed earnings. As with tax, there is a risk that HMRC may open an enquiry to check whether they agree you are self-employed.

⁵³ It is assumed that you will have paid Class 2 in any event.

⁵⁴ Reg 52 of the Social Security (Contributions) Regulations 2001

What about [VAT](#)?

VAT is more difficult still. If you have supplied services and are VAT registered, then you have to charge VAT. The position will depend on what your contract with the engager says. If it is silent about VAT, then you may have to treat the amount you receive as inclusive of VAT. Another possibility is that there was an implied term in your contract that VAT would be charged.

Depending on the contractual position, the two routes are that you (1) treat your gross pay as including VAT, or (2) invoice your engager for the gross amount plus VAT. See the example: Damon

Example: Damon

Damon is VAT-registered and self-employed. His Lorimer Letter is out of date. He works for TVCo for five days at the end of April 2016. He is paid £1,000 a day, so his gross earnings are £5,000. His expenses are £50 a day.

TVCo treat him as employed, and deduct £1,000 of PAYE (£5,000 x 20%) and £164⁵⁵ of employee NICs.

Damon puts the £5,000 in box 16 of his tax return, £250 of expenses in box 17 and £1,000 in the PAYE in box 18. He works out that he would only have paid £100 of Class 4 NICs (£5,000 x 2%) so he writes to NICO to reclaim the other £62.

For the VAT Damon may, depending on his contract:

1. Treat £5,000 as his gross sales including VAT. He must pay £833.33 of VAT to HMRC, leaving a net receipt of £4,166⁵⁶.
2. Invoice TVCo for £5,000 + VAT of 20% = £6,000. Add a note to say that of the £6,000, £5,000 has been received, but £1,000 is outstanding. £1,000 of VAT is paid to HMRC, leaving a net receipt of £5,000.

VAT raises other issues too. The amount incorrectly treated as employment income might, when added to your other self-employed earnings, mean you have to [register](#) for VAT. If you register late, you may trigger a [penalty](#).

Tell BECTU

BECTU are concerned about HMRC's current Lorimer Letter procedures. It would be much easier if FIU were flexible about their Lorimer Letters, so that they were

⁵⁵ $12\% \times (827 - 155) = 80.64$; $2\% \times (5,000 - 827) = 83.46$; $80.64 + 83.46 = \pounds 164$.

⁵⁶ $\pounds 4,166 \times 20\% \text{ VAT} = 833$. $\pounds 4,166 + \pounds 833 = \pounds 5,000$

backdated if the evidence supported this. After all, the Lorimer Letters simply reflect the legal position, they don't change it. Please let us know if you have any difficulties with Lorimer Letters and we will consider what action we can take.

Appeal to the Tax Tribunal

If you continue to disagree with HMRC, you have a right to [appeal](#) to the First-tier Tax Tribunal. It is suggested that you obtain advice from a tax specialist before deciding whether to do so. Again, BECTU would like to know if you are considering taking legal action so we can consider whether we can help.

The Tax Agency Rules

BECTU members who supply their services via an agency may be within the tax agency rules. These rules changed on April 6 2014⁵⁷.

As a result of the changes, you may be treated as an employee for tax and NICs purposes. This means you will be subject to PAYE and [employee NICs](#), even if you are self-employed under the normal [status tests](#).

What is an ‘agency’?

An ‘agency’ includes any individual, partnership or company other than you and your end-client, so it is very widely defined.

Who is within these rules?

If you provide your services personally and are subject to ‘supervision, direction or control’ as to the manner in which you provide those services, the agency must treat you as an employee for tax and NICs purposes⁵⁸. That means that the agency has to operate PAYE and NICs on your wages.

The position is the same if you are subject to *the right of* ‘supervision, direction or control’ as to the manner in which you provide those services – even if that right is not exercised in practice.

This means that you can be self-employed under the [status tests](#), but nevertheless treated as an employee under these agency rules.

What does ‘supervision, direction or control as to the manner’ mean?

HMRC’s understanding of these words is set out in their guidance.⁵⁹ Note, however, that HMRC’s guidance is not the law, and a court or tribunal may take a different view.

⁵⁷ These rules apply to both tax and NICs, but for ease of reference they are referred to only as ‘tax agency rules’ in this Booklet.

⁵⁸ Income Tax (Earnings and Pensions) Act 2003, s 44(2)(a) as amended

⁵⁹ www.gov.uk/government/publications/employment-intermediaries-personal-services-and-supervision-direction-or-control at ESM2055. Note that this was updated and amended on 6 April 2016.

HMRC say that:

Supervision over the manner in which the worker provides the services is the action or process of watching or overseeing what the worker does or how something is to be done. If a person checks or has the right to check the work the worker is doing to make sure it meets a required standard, the manner in which the worker provides the services is subject to supervision. Supervision can also involve helping the worker where appropriate in order to develop his skills or knowledge.

Direction is someone making a worker do his/her work in a certain way by providing him with instructions, guidance or advice as to how the work must be done. Someone providing direction will often co-ordinate how the work is done, as it is being undertaken.

Control is telling or instructing a worker about how they do the work. Control over how the worker does work also includes having the power to move the worker from one job to another. If someone can say 'don't do it like that' or 'do it like this' then he has a right of control as to the manner in which the worker works.

HMRC have given more guidance, and some detailed examples [here](#).

What happens if I am within the rules?

If you are self-employed under the [status tests](#), but treated as an employee under these agency rules, then:

- you will pay NICs at 12% rather than 9% on earnings which are above the primary threshold and below the upper earnings limit, see the section on [Class 4 NICs](#)
- some of your expenses will no longer be tax-deductible
- you will receive your earnings with tax already deducted, so will suffer a cash-flow disadvantage.

Who is outside the tax agency rules?

You are normally outside the tax agency rules and so do not need to worry about these changes if you:

- supply your services directly to your end-client, ie with no intermediate company, agency or other person being involved;
- supply your services via a [personal service company](#) ('PSC') directly to the end client; or
- are employed by an umbrella company. An umbrella company is a company with which you have signed a contract of employment but for which you do not work directly. Instead, you work for a third party business; the umbrella company invoices that third party and then deducts PAYE and employee NICs from your income before payment.

However, there are two points to note in particular

1. If you supply your services to a client via a PSC *and* an agency – so that your PSC contracts with the agency, and the agency contracts with the client, the agency has to send regular reports to HMRC which includes details of the payments made to your PSC⁶⁰.
2. If, after 5 April 2016, you are employed by (a) a PSC which is inside IR35, or (b) an umbrella company, your travel, subsistence and accommodation payments will be treated in a similar way to those of agency workers. This means that you are unlikely to be able to claim for most travel, subsistence and/or accommodation related to the work you undertake for that PSC or umbrella company⁶¹. HMRC have published draft guidance⁶² on how these rules are expected to work.

⁶⁰ See www.gov.uk/government/publications/employment-intermediaries-reporting-requirements/what-this-means-for-an-intermediary#personal-service-companies

⁶¹ New section 339A of ITEPA to be amended by Clause 14 of the Finance Bill 2016 after Royal Assent.

⁶² This can be found by inserting the following web address into your browser. www.gov.uk/government/uploads/system/uploads/attachment_data/file/483460/7057-draft-guidance.pdf After Royal Assent, probably in July 2016, the guidance is likely to be finalised and can be found by typing in "EIM8000" into the browser

What happens if the agency gets it wrong?

If the agency decides you are not in the tax agency rules because there is no supervision, direction or control, nor any *right* of supervision direction or control, and HMRC disagrees, the agency may suffer a heavy penalty.

Many agencies do not want to take the risk, and so deduct PAYE and NICs from your earnings.

If the tax agency rules apply, but the agency has not deducted the PAYE and/or NICs, HMRC will normally try and recover any PAYE and NICs from the agency rather than you.

However, HMRC may be able to collect any shortfall from you if they believe you knew that:

- the tax agency rules applied; and
- the agency was deliberately not deducting the PAYE (ie it was not a mistake on their part).

If you think that the tax agency rules apply to you, you should find out why the agency is not deducting the PAYE and NICs and then discuss their response with your accountant. You can also talk to HMRC directly and/or contact BECTU.

Can I be self-employed but still be caught by the tax agency rules?

Yes, if you are subject to '[supervision, direction or control](#)' the tax agency rules treat you as employed, even though you may be self-employed under the normal [status tests](#) for self-employment – for instance, you may be able to send a [substitute](#), provide significant [equipment](#), or have the right to [hire](#) your own workers.

Will I get [employment rights](#)?

Simply being within the tax agency rules does not give you employment rights, but you may have rights as a 'agency worker' under the Agency Workers Regulations ('AWR'). These include the National Minimum Wage and holiday pay.

If you think you should be within the AWR, but the agency doesn't agree, you may wish to take advice, for instance from the Citizens Advice Bureau. There is some online guidance [here](#) and [here](#):

What happens if I work partly through an agency and partly directly?

If you work partly on a self-employed basis directly for your end clients, and partly obtain work through one or more agencies and have PAYE and NICs deducted under the new rules, you should:

- complete the self-employment pages of your SA return for this work; and
- complete the employee pages of your tax return for the agency work. You will need a different set of pages for each agency. You should have been given a P45 if you left the agency during the year; otherwise you should have been sent a P60 form in July after the end of the tax year. Be sure to keep all these P45s and P60s, as you will need them when completing the return. If you work partly through one or more agencies and have PAYE and NICs deducted under the new rules, you should complete the employee page(s) of your tax return. See the section called 'overpayments and underpayments' in the BECTU *Tax for Employees* Guide, which is on the website.

Value Added Tax

Registering for VAT

Unlike [income tax](#), which is based on profits, VAT is based on turnover (sales). If your sales over the last twelve months have exceeded the VAT threshold (currently £83,000) you **must** register for VAT. You must also register if you expect to exceed that threshold in the next 30 days.

So you need to track your turnover on a rolling twelve month basis as you start to approach this threshold. You can [register online](#) or on paper.

Once you have registered, you must charge VAT at 20% on most sales within the scope of VAT. Some sales are exempt, some are zero-rated (meaning that you charge a nil rate) and a few are at 5%⁶³. The rules for cross-border transactions are particularly complex and you should get professional advice⁶⁴.

You can also register [voluntarily](#). This allows you to reclaim the VAT on your purchases but you must then charge VAT on sales (subject to the rules for exemption, zero rating and cross border transactions).

If you fail to register, or register late, you will still have to pay all the VAT due from the time that you should have been registered. This means that you will have to work out the VAT you should have charged, and pay this to HMRC, even though you didn't collect it from your customers.⁶⁵ This is obviously very expensive. HMRC may also charge you a [penalty](#).

Once you have registered, you can claim back the VAT on some of the goods and services you purchased for your business before registration. The UK rules say that there is a time limit of four years for [goods](#) (such as computers) and six months for [services](#) (such as accountancy advice).

⁶³ HMRC [guidance](#) explains the distinction between standard rated, exempt and zero-rated supplies

⁶⁴ There is [guidance](#) about supplying services overseas on the HMRC site, but this is a very complex area.

⁶⁵ You may be able to issue 'VAT-only' invoices to collect the VAT you didn't charge. Your accountant or HMRC may explain how to do this.

VAT can be made simpler using two HMRC schemes, the [cash basis](#) and the [flat-rate](#) scheme, which can be used separately or together. There are situations when neither scheme is appropriate, and you should take professional advice before using them.

Cash basis for VAT

When you work out your VAT, you usually have to pay over the VAT you have charged on bills you have sent out, even though you haven't yet received the money. You can also deduct the VAT on your costs, even though you haven't paid your supplier.

If you are on the cash basis for VAT, you only have to pay VAT when your customer has paid your bill. But equally you can only deduct the VAT on your purchases when you pay your supplier, see Example [VAT1](#).

Example VAT1

Stefan builds sets for film and TV companies.

In the year to 31 December 2015⁶⁶ he does 10 jobs and sends out invoices for £120,000 including VAT of £20,000. He pays out £24,000 for materials including VAT of £4,000.

On 31 December he has paid all his own bills but is still waiting for five of his clients to pay him. He has received £72,000 (including VAT of £12,000) out of the £120,000 billed.

Under normal VAT rules his VAT would be: £20,000 – £4,000 = £16,000

Under the cash basis his VAT would be: £12,000 – £4,000 = £8,000

Of course, the remaining £8,000 of VAT will be payable later – but only when Stefan has received the outstanding receipts from his clients.

Since most BECTU members have relatively low purchases compared to sales, cash accounting is normally beneficial. HMRC provide some helpful [advice](#).

You will not be allowed to use the cash basis for VAT if you are not up to date with your VAT returns and payments.

⁶⁶ For simplicity, this example ignores the usual VAT return periods. These are normally quarterly.

Note that the cash basis for VAT is not the same as the [cash basis](#) for income tax. Just because you are on the cash basis for income tax doesn't mean that you are also on it for VAT, and vice versa. You need to consider both separately. In particular the thresholds are different:

- You can only start using the [cash basis for income tax](#) if you are below the VAT threshold at the point you start using the cash basis⁶⁷. You can stay in the cash basis for income tax until the year after your turnover is twice the current VAT threshold.
- You can start to use the [cash basis for VAT](#) as long as your estimated VATable turnover during the next tax year is not more than £1.35m⁶⁸, and you can stay in the cash basis for VAT as long as your turnover is below £1.6m.⁶⁹

Flat-rate scheme

The flat-rate scheme is a simplified way of dealing with your VAT. Because it is simpler, it is less likely that you will make a mistake, because there are fewer rules to follow.

Instead of deducting the VAT on your purchases from the VAT on your sales, and paying the balance to HMRC, you apply a fixed percentage to your VAT inclusive sales.

The percentage depends on your business category. Categories which may be relevant to BECTU members are set out on the next page. If you can't find a category which applies to your business on that summary list, you should check the full list [here](#). The full list also contains two categories for those who don't fit into the others – 'business services not listed elsewhere', and 'any other activity not listed elsewhere'. Both of these categories currently have a percentage of 12%.

⁶⁷ Unless you are on Universal Credit. You must use the cash basis for UC, and you are then allowed to use it for tax as long as your turnover is not more than twice the VAT threshold

⁶⁸ Regulation 58 of the VAT Regulations 1995

⁶⁹ Regulation 60 of the VAT Regulations 1995

Categories likely to be relevant to BECTU members	
Film, radio, television or video production ⁷⁰	13%
Hairdressing or other beauty treatment services	13%
Computer and IT consultancy or data processing	14.5%
Photography	11%
Computer repair services	10.5%
General building or construction services (where materials cost at least 10% of the relevant turnover)	9.5%
Labour-only building or construction services (where the materials cost less than 10% of the relevant turnover)	14.5%

For the first year of VAT registration, you receive a further 1% discount on the rate set out in the list.

To see how the flat rate works, see example [VAT2](#).

Example VAT2

Stefan's supplies are categorised as 'general building and construction'. Assuming he is not using the cash basis:

- Under normal VAT rules his VAT would be: £20,000 – £4,000 = £16,000
 - Under the flat rate scheme his VAT would be: £120,000 x 9.5% = £11,400
- | | |
|-----------|---------------|
| Reduction | <u>£4,600</u> |
|-----------|---------------|

The £4,600 reduction is permanent: Stefan never has to pay it over to HMRC as VAT. But it increases his business profits, which are, of course, subject to [income tax](#) and [National Insurance](#).

You can only join the flat-rate scheme if your turnover (excluding VAT) for the next year will be £150,000 or less. The flat-rate scheme has some disadvantages, and it is recommended that you read the HMRC [guidance](#) booklet if you are considering using it. This is more detailed than the general overview on the gov.uk site, which is [here](#).

⁷⁰ HMRC's view is that a TV cameraman comes within 'film, radio etc production' and not within 'photographer', see paragraph 4.4 of Booklet 733 [here](#).

Using a limited company

Why use a limited company?

Many self-employed people are happy to continue as they are. However, there may be tax advantages to using a limited company – often known as a personal service company (PSC). A PSC may also reduce the risk of being sued if something goes wrong – because the services have been supplied by the company and not you personally.

However, there are significant risks, including HMRC deciding that you are within anti-avoidance legislation (known as [IR35](#)), which is aimed at preventing some people accessing the tax advantages.

You are strongly advised not to set up a PSC without taking advice from an independent accountant who is qualified in tax – for instance, a Chartered Tax Adviser ('CTA').

How to operate via a PSC

If you operate via a PSC, all contracts for services must be with that company. Your tax adviser may need to agree amendments to the draft contracts sent to you by your engager or agent, to check that they are with the company and that their terms are compliant with IR35, and legal advice may also be advisable.

You will normally be a director and employee of your PSC, and own the shares. You can give or sell some of the shares to others, for instance, your partner or another family member. Then they will be a shareholder too.

The company will need to consider whether to [register for VAT](#). You cannot use your existing self-employed registration.

The company will need its own bank account, and the money earned for your work legally belongs to the company and not to you personally. For you to have a right to the money, the company must decide to pay it to you, for example as salary or as a dividend. The tax and NICs implications are discussed [below](#).

It is very difficult to operate via a company without professional help. So you are likely to need an accountant who can help you run the company and make sure you comply with the more demanding administrative requirements. For example, the company will have to file accounts and returns at Companies House as well as comply with the tax rules. HMRC give outline [guidance](#) on what needs to be done.

The tax and NICs advantages

As set out earlier in this booklet, if you are self-employed you are taxed on your profits at the [income tax rates](#). These are 20%, 40% and 45%, depending on your total income level. You also have to pay [Class 2](#) and [Class 4](#) National Insurance.

Historically there have been advantages to using a company, subject to the anti-avoidance rules ('[IR35](#)'). The rest of the paragraphs in this part of the Chapter assume that IR35 does not apply to your engagements.

If you have a company, the company pays tax on its profits at the small companies rate of 20% (the same as the basic rate for individuals). There is no 40% or 45% rate.

An efficient way to take money out of the company is to pay yourself a small salary, just over the 'lower earnings limit' of £5,824 pa⁷¹ (which entitles you to a qualifying year for state pension purposes⁷² along with certain other benefits) but not over the primary/secondary threshold of £8,060. Salaries below that threshold do not attract either [employer or employer NICs](#).

A salary of this level is also below the [personal allowance](#) limit (£11,000 in 2016-17) and so the company normally does not have to deduct PAYE. However, you must put your salary on the employee pages of your SA tax return.

Any profits remaining in the company can normally be withdrawn as dividends, which are paid free of NICs. As a result you make a NICs saving. However, from 6 April 2016 the rate of tax on [dividends](#) has increased for those receiving more than £5,000 a year of dividend income. This means that the overall advantage of saving

⁷¹ The figures given are those for 2016-17.

⁷² There is some further information about qualifying years [here](#).

NICs has reduced and may be eliminated entirely. It is even possible that using a company will cost you money compared with working on as a self-employed basis.

If you have transferred some of the company's shares to a spouse or partner, dividends can also be paid to him or her. If that person has no taxable income, or a very low income, the first slice of these dividends is not taxable at all (because of the [personal allowance](#)) and the second slice of £5,000 is taxable at 0% because of the [dividend allowance](#). The balance will be taxed at the dividend rates as explained [here](#).

Transferring shares to your spouse/partner and then paying a dividend can therefore be tax efficient. However, remember that both the shares and the dividends belong to your spouse/partner, and not to you. There are sometimes complications with these arrangements, so before you transfer shares you should seek specialist advice.

If you have a good year, you may decide not to pay out all the company's profits as dividends (perhaps because if you did, it might trigger higher rates of tax). You can keep the profits in the company and pay them out in a later year when business may not be so good, or (perhaps) tax rates have come down.

The anti-avoidance legislation (IR35)

Anti-avoidance legislation (known as IR35) prevents some people accessing these tax and NICs advantages. However, IR35 will not apply to you if you would have been genuinely self-employed for an engagement had you operated as a sole trader (ie without a company). If you are not sure if you would have been self-employed, see ['Am I self-employed?'](#)

If you would have been an employee of your engager if you didn't use the company, then you are within IR35. This means that your company has to deduct roughly the same PAYE and NICs as your client would have had to pay if he had engaged you directly (ie not through your PSC). You need to do this on an engagement-by-engagement basis: some might be within IR35 and some outside.

If an engagement is within IR35, the amount your company has to pay HMRC includes not only [employee NICs](#) but also employer NICs.

And from April 2016 new legislation will also mean that most travel, subsistence and accommodation costs reimbursed or paid for you by the PSC or another person (such as the client) will be taxable⁷³. HMRC have issued some draft guidance about these rules⁷⁴.

The combination of these rules means that it is very expensive to be caught by IR35. In addition, the HMRC investigation and enquiry process is often lengthy and can be costly.

If you ignore the IR35 rules, but are 'caught' later, you may have to pay 4 years of back tax and NICs, and sometimes as much as 20 years. This is likely to be crippling.

If HMRC decide that your PSC is caught by IR35, and you don't agree with their decision, you can [appeal](#) to the First-tier Tax tribunal. It is suggested that you obtain advice from a tax specialist before doing so.

⁷³ New section 339A of ITEPA to be amended by Clause 14 of the Finance Bill 2016 after Royal Assent.

⁷⁴ This can be found by inserting the following web address into your browser. www.gov.uk/government/uploads/system/uploads/attachment_data/file/483460/7057-draft-guidance.pdf After Royal Assent, probably in July 2016, the guidance is likely to be finalised and can be found by typing in "EIM8000" into the browser.

Appendix 1

HMRC list of self-employed grades

The self-employed grades accepted by HMRC and listed in their [Film Industry Guidance](#) are set out below. The list is included in this booklet for information only, and should not be taken to imply that BECTU agrees with HMRC policy on employment status classification generally, or with the comments HMRC make on 'substantial provision of materials/equipment' and/or 'tools of the trade', which are set out below.

If your grade is not on this list, but you think you might be self-employed, see '[Am I self-employed.](#)'

HMRC NOTES

Grades marked with an **ASTERISK** are self-employed as long as the individual is engaged on a freelance basis and the engagement is:

- **for a one-off production** such as a feature film or single drama or documentary. If the worker is to be engaged on a separate production following the completion of the one off production then where this is known at the outset of the second production PAYE should be considered from the commencement of the second production. If this happens after a break, where it can be shown that the worker was seeking or worked elsewhere then the worker can be treated as self employed. Note – a break is a natural break rather than a contrived one such as Christmas holiday, annual vacation.

OR

- for a **programme strand or series of less than 9 months** (if the worker is engaged for 9 months on a series and a second series is commissioned then as the series are linked the worker can continue to be treated as self employed on the second series)

OR

- longer periods on a programme strand/series for which authority has been given by HMRC.

Assistant grades are NOT included unless specifically identified in the list.

Many items on the list include the phrases 'premises provided by the engager' and/or 'substantial provision of materials/equipment by the engager' and/or 'provision of facilities by worker'. These are defined by HMRC as follows:

Premises provided by the engager

These embrace studios, locations or any other facilities provided by or at the direct expense of the engager, whether or not the engager is occupier of those premises.

Substantial provision of materials/equipment

This means the provision of major items which play an important and fundamental role in the work of the grade in question and which are of significant value, such provision being an integral requirement of the contract of engagement. It does not include tools of the trade (see below).

The significance of the provision of equipment in determining tax status is the financial risk which such provision entails. It follows that in general equipment must be owned by, or at the permanent disposal of the worker.

Provision of hired equipment, whether or not hired in the worker's name, is relevant only if obtained entirely independently of the engager. Such provision should be disregarded if the financial risk is effectively underwritten by the engager.

If a worker is treated as self-employed by virtue of the substantial provision of equipment, the engager must retain full details of the equipment provided for production to this office on request.

Tools of the trade

It is customary for most craftsmen to provide their own tools, whether engaged as employees or as self-employed contractors. Such tools should be disregarded in considering the value of equipment provided, even though the contents of a joiner's or electrician's toolbox may have substantial intrinsic value.

Provision of facilities by worker

This means that the work is performed mainly away from the engagers premises and/or that the worker provides office equipment, other relevant equipment and the necessary space to facilitate the relevant work activities

THE GRADE LIST

Advance Rigger	Where the contract requires substantial provision of equipment
*Animal Handler	
*Animation Director	
*Animation Production Co-ordinator	
Animator	Where the work is performed other than on premises provided by the engager AND the contract requires substantial provision of equipment
*Animatronic Model Designer	
Archive Researcher	
*Art Director	
Assistant Art Director	Where the work is performed other than on premises provided by the engager
*Associate Producer	Except where engaged primarily for general research
*Auditioner	
Background Artist	Where the work is performed other than on premises provided by the engager
Camera Operator	Where the contract requires substantial provision of equipment
*Casting Director	
*Chaperone/Tutor	
*Choreographer	
*Composer	
Construction Manager	Where the contract requires substantial provision of equipment.
Continuity	Where script breakdown is an integral part of the contract
Contributor	Where payment is made on a per contribution basis
*Co-producer	

Costume Designer/Assistant	
Costume Designer/Costume Supervisor	Where the work is performed other than on premises provided by the engager OR the contract requires the substantial provision of materials
*Cricket scorer	
Digital Set Designer	Where the work is performed other than on premises provided by the engager
*Director	
*Director of Photography	
Dressmaker	Where the work is performed other than on premises provided by the engager
Driver	Where the contract requires the driver to provide his own vehicle
*Editor	
*Executive Producer	
*Fight arranger	
*Film/Photographic Stylist	
*First Assistant Director	
Foley Artist	Where the contract requires substantial provision of equipment
Gaffer	Where the contract requires substantial provision of equipment
Graphic Artist/Graphic Designer	Where the work is performed other than on premises provided by the engager.
Grip (incl Key Grip)	Where the contract requires substantial provision of equipment by the individual
Hairdresser	Where the contract requires substantial provision of equipment (including wigs) by the hairdresser or 50% or more of the work is performed other than on premises provided by the engager.
*Head of Art Department	

Head of Department Rigger	Where the contract requires the provision of substantial equipment
Language Assessor	Where used on an occasional basis to check style and delivery of foreign language broadcasts
Lettering Artist/Lettering Designer	Where the work is performed other than on premises provided by the engager
Lighting Director/Lighting Cameraperson	Where responsible for designing lighting or photography
*Line Producer	
Location Manager	Where the worker completes preliminary planning, arranges accommodation, sets the stage, restores the site to original condition; within this role should provide a complete office service; may hire staff and equipment.
Make Up Artist	Where the contract requires the provision of a standard make-up kit by the artist OR where 50% or more of the work is performed other than on premises provided by the engager
*Matron	
Model Camera	Where the contract requires substantial provision of equipment
Model Designer/Model Maker	Where the contract requires provision of facilities AND equipment/materials by the individual.
*Modeller	
Musical Arranger /Musical Copyist	Where the work is performed other than on premises provided by the engager
*Musical Associate/Director/Score Reader	
*Nurse	
*Post Production Supervisor	
*Producer (including co-producer and executive producer)	

Production Accountant	Where the contract requires the provision of relevant facilities by the individual
Production Assistant	Where script breakdown is an integral part of the contract
*Production Buyer	
*Production Designer	
*Production Manager	
*Production Supervisor	
Property Master/Propand	Where the contract requires substantial provision of equipment (including props)
Provider of occasional information (including Legmen)	Embraces tip-offs, racing tips, sports news and similar information
*Publicist	
Scenic Artist/Designer	Where 50% or more of the work is performed other than on premises provided by the engager
Script Reader	Where the work is performed other than on premises provided by the engager
Script Supervisor	Where script breakdown is an integral part of the contract
*Scriptwriter	Excluding reporting scripts
*Sculptor	
*Senior Floor Manager	
*Senior Special Effects Technician	
Set Decorator/Set Dresser	Where the contract requires set design performed other than on premises provided by the engager
Sound Maintenance Engineer	Where the contract requires the substantial provision of equipment
Sound Recordist/Mixer	Where the contract requires the substantial provision of equipment
Special Effects Supervisor	Where contract includes provision of necessary equipment by the worker
Special Effects Wire Person	Where the contract includes provision of necessary equipment by the worker

Specialist Researcher	Where the worker has either an existing profession outside the film industry (eg Academic, Legal Adviser, Doctor etc) OR with specialist knowledge of the programme subject to be researched AND who is engaged for a specific project and is not a regular contributor
*Sport Statistician	
Stage Manager	Where the contract requires the provision of equipment (including props)
Stills Photographer	Where contract requires provision of all cameras by the worker
Storyboard Artist	Where the work is performed other than on premises provided by the engager
*Story Writer	Excludes news reporting
*Stylist	Film or photographic styling
Transcript Typist	Where the work is performed other than on premises provided by the engager
Translator	Where the work is performed other than on premises provided by the engager
Transport Manager	Where worker provides vehicles
*Tutor	
Unit Manager	Where the contract requires provision of facilities by the worker.
Video Technician	Where the contract requires the substantial provision of equipment
Wardrobe (including Wardrobe Supervisor and Stylist)	Where the work is performed other than on premises provided by the engager OR the contract requires the substantial provision of materials
*Warm up	
Wig Maker	When engaged for work undertaken in premises other than those provided by the engager

Wire Person

Where the contract requires the provision of equipment by the individual

*Writer

Excluding reporter

Appendix 2: HMRC Contact details

It can take time to contact HMRC by phone so be prepared to try several times, especially around key payment deadlines, such as 31 January.

For general tax enquiries which are not on the list below, call 0300 200 3300

Self-assessment

For general [self-assessment](#) enquiries call 0300 200 3310. The helpline is open from 8.00 am to 8.00 pm Monday to Friday and 8.00 am to 4.00 pm Saturday. You should have your Unique Taxpayer Reference (UTR) number with you when you call – this is on most letters and statements you receive from HMRC.

If you write to HMRC you should use the address on your self-assessment return or the Notice to File. If for some reason you don't have recent correspondence, you should write to them, quoting your NI number and UTR, at *HMRC BX9 1AS*. This address is used for everything except complaints, for which the address is *PAYE and Self Assessment Complaints BX9 1AB*

Film, TV and radio

For advice and information on issues relating to film, TV and radio, such as [employment status](#), [expenses](#), [Lorimer Letters](#) and the [7 day rule](#), contact: the *Film & Production Unit, HM Revenue & Customs, Film & Production Unit, Floor 2, Weardale House, Washington, Tyne and Wear NE37 1LW* Telephone 0300 123 2326 Email: a.filmproductionunitmailbox@hmrc.gsi.gov.uk

When you make contact by phone, you will be asked to specify whether you are calling about:

1. TV &/or Radio Broadcasting
2. Film &/or TV Production including Lorimer Letters
3. Foreign Broadcasters
4. Employment status
5. IR35

National Insurance Contributions

For advice on NICs (changes to [self-employment](#), rates and thresholds) contact 0300 200 3500 between 8.00 am to 5.00 pm, Monday to Friday.

VAT

For advice on [VAT](#) contact 0300 200 3700. The helpline is open 8.00 am to 6.00 pm, Monday to Friday. For more details, see the guidance [here](#).

Problems paying tax or VAT

If you can't pay your tax or VAT on time, you should call the Business Payments Support service [before the deadline](#). The number is 0300 200 3825. The helpline is open from 8.00 am to 8.00 pm Monday to Friday & 8.00 am to 4.00 pm Saturday and Sunday. There are more details [here](#).

If you don't get an extension of time to pay, you are likely to be charged a penalty and there may be other distressing consequences (such as recovery proceedings in the court, and collection using bailiffs), see further guidance [here](#).

IR35

For advice on [IR35](#) which relates directly to film, TV or radio work, see the contact details for the film and TV unit above. Otherwise, call 0300 123 2326 between 8.30 am to 4.30 pm, Monday to Friday, or email enquiries ir35@hmrc.gov.uk. There is further information [here](#).

Complaints

HMRC have a range of numbers for complaints, which can be seen [here](#).