



not for profit | charities and the application of PAYE

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Where a charity employs one or more people it becomes responsible for deducting and paying over to HM Revenue & Customs (HMRC) the correct amount of tax (PAYE) and National Insurance Contributions (NIC). The ultimate responsibility lies with the charity's trustees and they therefore need to ensure that anybody with delegated power to employ the services of others on behalf of the charity understands and follows the proper procedures.

HMRC has the right to inspect a charity's books and records and where it is found PAYE/NIC have not been fully and completely paid over the charity can be assessed for the amount of PAYE/NIC due. HMRC can go back over a period of up to six years (or longer in cases of fraud or negligence) and penalties and interest will be levied. Failure to collect and pay over PAYE/NIC can therefore prove to be very expensive.

Where payments are made to individuals for services and the individuals are not on the payroll, it is important to be certain that the individual is in fact self employed. An employment may exist even if the hours worked are few and irregular and the amount paid is small. It is often difficult to distinguish between an employment and the use of a self-employed contractor. Only in the latter case can the PAYE system be disregarded.

Each case has to be considered on the particular circumstances involved but the following factors are a selection of the points to be considered that might indicate that a person is self-employed:

- the person is in business on his/her own account (and has other clients)
- the person has a significant degree of control over the way his/her work is performed and its timing
- there is no holiday or sick pay
- the person supplies his/her own materials/equipment

Where a worker is treated as self-employed certain safeguards may be taken:

- at the very least, obtain an invoice (properly drawn up with name and address rather than just a signed chit of paper)
- ask for the person's unique taxpayer reference (UTR) number and National Insurance number which should enable the Revenue to trace the person in the event of an enquiry



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- check with your Inspector of Taxes and obtain a written ruling which should be held for future reference

Unless it is clearly demonstrated that a person is self-employed then it is likely that an employer-employee relationship exists and the PAYE/NIC rules applied to all payments.

initial procedures - tax forms

When somebody starts working for you they should provide you with an HMRC form P45. This form is completed by the person's former employer and sets out their tax code (that is how much they can earn tax-free), their national insurance number, how much they have been paid in the tax year to date and what tax has been deducted from their pay.

Often a person will not have a P45 (perhaps because they have had no recent employment) in which case you should:

1. ask the employee for his/her National Insurance number. If they cannot provide one they should obtain it for you (see below).
2. ask the employee to complete a form P46 to certify
either:
 - that this is the person's first job and that they have claimed no Social Security benefits (Part A of the form),
 - and/or**
 - that this is the person's only or main job (Part B)
 - that the person is in receipt of a pension (Part C)

initial procedures - national insurance

Employees should give you a National Insurance number when you ask for it. If they cannot do so, you should keep a record of:

- full name
- date of birth
- address

If you do not get an NI number within eight weeks you are expected to contact the Contributions Agency at your local Social Security office. A leaflet (CA28) is available which explains the procedures in more detail.

P46 not signed

If the person cannot, or will not, sign any of the statements on the P46 then you should deduct tax under 0T tax code from all of their salary (i.e. no tax free personal allowance is deducted from their earnings).

P46 signed

If total pay in the week is below the PAYE & NIC threshold:

- keep form P46
- do not set up PAYE records
- keep a record of how much has been paid to the employee

If total pay exceeds the PAYE/NIC thresholds:

- send P46 to tax office
- deduct tax on the relevant tax code (indicated by the form)
- deduct NIC if earnings exceed the weekly or monthly threshold
- pay tax and National Insurance to HMRC

Where an employee receives benefits from you (such as free or cheap accommodation) or expenses (such as travel costs) are reimbursed, these are likely to have to be set out on a return (a form P9D or P11D) which is sent to HMRC with a copy to the employee. This is a complex subject in its own right and may need to be considered in some detail.

Once established as an employer it will be necessary to perform regular calculations of PAYE/NIC and to complete forms such as payslips and returns to HMRC. This can be somewhat daunting for those uninitiated in the operation of a payroll. HMRC does provide assistance and a 'simplified procedure' for those with few employees.

haysmacintyre can provide payroll services or advice on any concerns you may have, for more information please contact your engagement partner.

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about haysmacintyre

haysmacintyre, Chartered Accountants and business advisers, works with over 550 charities and not for profit organisations in the UK and overseas. Our services include the full range of audit, tax, VAT and comprehensive advisory services. Our multi-disciplinary specialist team has extensive sector experience working for a diverse range of charities. We are based in one location which ensures an integrated and comprehensive approach to our clients' requirements.

haysmacintyre is a founding member of MSI Global Alliance (MSI), an international alliance of independent legal and accounting firms, with 250 members in 100 countries.



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