

## Excerpt from Self Employed or an Employee? IR336: How to work out your tax status

### Introduction

The terms “employment” and “self-employment” are not defined in the tax laws, and there is no single test for deciding between them. You can decide whether you are employed or self-employed by looking at the work you actually do and the way you do it. The decision can’t be made just because you or your employer call your job “employment” or “self-employment”. The following sets out some guidelines for working out whether you are employed or self-employed.

If you have a number of jobs, you need to apply the guidelines to each one separately. If you are employed or self-employed in one job, it does not automatically mean that the same will apply to your other job(s). If you have a contract with the person who pays you, you might be described in it as an “independent contractor”, or as “self-employed”, or similar. This doesn’t mean you will automatically be self-employed. The working conditions set out in the contract (or agreed verbally) will determine your status, not the way you are described.

### Guidelines

In most cases the answer will be obvious. For example, if you are working for a company on a factory production line, doing a job set by your boss, you are employed. You are self-employed if you are in business on your own account, such as running your own dairy.

The following guidelines will help you if your situation is unclear. Ask yourself the questions about each of your jobs. Think particularly about the main conditions of that job that govern the way you work.

**If you can answer “yes” to most of the following questions, it will usually mean that you are self-employed.**

- Do you decide or control how you do the work? For example:
  - when you take holidays
  - when, where and what hours you work
  - the standard or quality of work
  - how much you get paid and how.
  
- Do you invest or risk your own money in the activity in any way?
  - Could you sell the business?
  - Do you support the business with your own money, for example, have you lent it money, or provided any working capital? (Shares that you get under any employee share purchase plan don’t count.)
  - Are you responsible for losses or your own bad management?
  - Are you responsible for management and investment decisions for the business?
  
- Do you provide the major assets or working equipment needed for your job, not just small tools, work clothing and/or a vehicle to get to and from work?
  
- Do you provide or pay for your own training?

- Are you responsible for getting the work done?
  - Can you get other people to work with or for you, without needing to get permission from anyone else?
  - Do you pay these people from your own funds?
  - Are you free to do work for other people?
  - Do you advertise on your own account?
  - Do you arrange for someone else to do the job if you can't (for example, if you are sick, or have to be somewhere else)?
  - Does your work contract say you'd be penalised in any way if you stopped work, or left without completing a particular project?
  - Do you have to correct unsatisfactory work in your own time and at your own expense?

**If you can answer “yes” to most of the following questions, you are probably an employee.**

- Do you have to do the work yourself, rather than hiring someone else to do it for you?
- Can someone tell you at any time what to do on the job, or when and how to do it?
- Are you paid at a set rate (for example, hourly, weekly, monthly, or per unit of production)? Can you get overtime pay or penal rates? (Please note that even if you are paid by commission or on a piecework basis you may still be an employee, especially if there are other people at your job who work on the same basis.)
- Do you work set hours, or a given number of hours a week or month?
- Does someone else set the standards for the amount and quality of your sales or output?
- Do you work at the premises of the person you are working for, or at another place or places they decide?
- Are other people who do the same sort of job as you treated as employees?
- Are you under an employment contract (either individual or collective), or any law that says how your relationship with your “employer” should be run?
- Are you prevented from doing work for anyone else?
- Do you have to follow the rules or procedures of the person you are working for?