

In determining employment status of an individual the courts, tribunals and HM Revenue & Customs (HMRC) will look at all aspects of the arrangement between the individual and organisation. There is not a single conclusive test that can be applied to all cases. In addition, tribunals and HMRC may have different approaches to this test.

The following factors in the table below help to indicate whether an individual is an employee or self-employed:

	Employee	Self Employed
Mutuality of Obligation	The company is under a contractual obligation to provide the individual with regular work and remuneration and in return there is an obligation for the individual to undertake, and make sure that they are available to do such work.	The company is not obliged to offer work to the individual and the individual has no obligation to accept any work that is offered.
Personal service	The individual is required to provide their services and skills personally.	The individual is not required to carry out the services personally and can appoint a substitute if they wish to do so.
Control	The company has the ultimate direct authority over an individual in the performance of his/her work. The company will control what the individual does, how they do it and when they do it. The individual will also be required to comply with the standards of practices set out by the employer, for example the company's dress code.	The individual can determine when and how they work and is not under the direct supervision of the company.
Exclusivity	The individual will not usually be free to work for a competitor of the company without the express permission of the company. It is also likely that the individual will be subject to restrictive covenants.	The individual is free to provide their services to whatever organisation/company they choose. They do not have to operate exclusively for one organisation/company.
Nature and length of the engagement	The length of the individual's engagement is not for a fixed period (with the exception of fixed-term contracts).	The individual will usually be engaged by the company for a specified period to carry out a specific task/project.
Pay and benefits	The individual is paid a fixed amount on regular payment dates regardless of performance targets or completion of a specific task. The individual may also receive a pension, bonus, private medical insurance, company car or other benefits and may also be entitled to company sick pay.	The individual is paid on completion of a specific task/project or on a commission basis. The individuals are not entitled to participate in any benefit schemes of the company.
Facilities and equipment	The facilities and equipment required by the individual to carry out the job are provided by the company.	The individual holds their own equipment and materials in order to perform the services.
Financial risk	The individual does not assume financial risk when working for the company and is paid by the company even if there is not sufficient work to keep them fully occupied.	The individual is usually personally responsible for any losses arising from their work. The individual may be required to correct any unsatisfactory work in their own time and at their own expense.
Taxation	The individual is not responsible for payment of income tax and national insurance contributions on their earnings. The tax will usually be paid by the company directly to HMRC using the PAYE scheme.	The individual is responsible for payment of their own income tax and national insurance contributions on their earnings and is responsible for registering for VAT if required to do so.

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