



ARE THEY REALLY SELF-EMPLOYED?

Jacqui Burke, of Flourishing People, encourages you to ask this question regarding any self-employed team members.

In October, HMRC announced that it planned to crack down on businesses that use self-employed contracts as a way of reducing their tax burden. It believes that up to half a million people in the UK may be wrongfully classed as self-employed by their employers, denying them protections such as maternity pay and pensions, at a cost to the Treasury of £300 million in lost tax and National Insurance contributions. This announcement was swiftly followed later the same month by a landmark employment tribunal ruling against Uber which made it clear that their 40,000 drivers in the UK must be treated as workers and paid the National Minimum Wage. And yet, in spite of all this publicity, I continue to have worrying conversations with clients who are contracting with their staff on a self-employed basis, and assume this is just a matter of personal choice. This is perhaps particularly the case where a self-employed sole trader is expanding and taking on staff, but wrongfully believes that because they are self-employed themselves, that their staff will be too. People I have spoken with about this recently were not aware that HMRC has very strict criteria which it uses to determine whether an individual can be classified

as self-employed, and that to fail to employ someone correctly, and pay them through the PAYE system, is a serious offence. The HMRC website provides a simple checklist that employers can use to determine whether someone working for them should be classed as employed or self-employed. In summary, an individual can only be classified as self-employed if they:

- Are in business for themselves, are responsible for the success or failure of their business and can make a loss or a profit
- Can decide what work they do and when, where or how to do it
- Can hire someone else to do the work (sub-contracting)
- Are responsible for fixing any unsatisfactory work in their own time
- Have agreed a fixed price for their work - it doesn't depend on how long the job takes to finish
- Use their own money to buy business assets, cover running costs, and provide tools and equipment for their work
- Can work for more than one client.

To help you get this right, you'll find more detailed information at www.gov.uk/government/collections/employed-or-self-employed

Jacqui Burke established Flourishing People to help smaller, local firms develop their people to be the best they can be.

www.flourishingpeople.co.uk

MORE INFORMATION

Flourishing People
07770 477 688
www.flourishingpeople.co.uk