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False Self-Employment in Construction

The government has concluded that the best way to address the issue of false self-employment in the construction industry for income tax (IT) and national insurance (NI) purposes is to introduce legislation which deems workers within the construction industry to be in receipt of employment income unless one of three simple, clear and easy to apply criteria is met.

HMRC state:

“Where both the worker and the engager decide that self-employed status is the desired outcome, then it is very challenging for HMRC to build a full and accurate picture of the true terms of the engagement. As a result, demonstrating any mismatch between the contract and the reality can be difficult and time-consuming. Or, if there is no written contract in place, establishing the actual terms of the engagement can also be problematic”.

The government believes that the following three criteria are reliable indicators, within the context of the construction industry, of a worker being in receipt of self-employment income:

- **Provision of plant and equipment:** that a person provides the plant and equipment required for the job they have been engaged to carry out. This will exclude the tools of the trade which it is normal and traditional in the industry for individuals to provide for themselves to do their job;

- **Provision of all materials:** that a person provides all materials required to complete a job; or

- **Provision of other workers:** that a person provides other workers to carry out operations under the contract and is responsible for paying them.

A worker will have to meet one or more of these three criteria in order not to be deemed to be in receipt of employment income.

If the worker is deemed to be in receipt of employment income, PAYE will be due on the payment he receives. The person who makes the payment to the worker will have the obligation to apply the statutory criteria.

This measure will only deem a worker to be in receipt of employment income for the purposes of income tax and NI and will not confer employment law rights on a worker.

These are only proposals at the moment but if you would like to be kept informed of developments or need further information please be in touch.



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