### Who decides the employment status of my PA?

It is your responsibility as someone buying the services of a PA to decide their tax employment status. You should ensure you complete a status check with each individual PA and keep a record to show you have taken steps to ensure your PA is working under the correct employment status.

You cannot just pick an employment status and decide a PA is self-employed because it is better for you or because the PA has told you that they are self employed and have a unique tax reference number, or work as part of a group of self employed PA’s. The employment status is decided by looking at the individual relationship you have with each of them.

Employment Status Checklist and Outcome

|  |  |
| --- | --- |
| **Is the Person is an Employee?** | **Yes/No** |
| If the answer is **'Yes'** to all or most of the following questions, then the PA is probably an employee: | |
| Do you tell them what work to do as well as how and when to do it? |  |
| Do you train them to be able to do their job safely? |  |
| Do they have to do the work themselves? |  |
| Can you move them from task to task? |  |
| Are they contracted to work a set amount of hours? |  |
| Do they get regular pay or salary, even if there is no work available? |  |
| Can they get overtime pay or bonus pay? |  |
| Do they get benefits such as paid leave or pension as part of their contract? |  |
| **Substitutions** | **Yes/No** |
| If the answer is ‘**YES’** to any of the following questions the PA is probably an employee: | |
| You can restrict when a substitution takes place – e.g. only when the PA is off sick or taking annual leave |  |
| Youcan choose who the substitute will be, either from a list or from an individual |  |
| You need to give agreement for the PA to put in a substitute |  |

Once you have answered the status checking questions, if your PA is viewed as being an employee you need to ensure you pay them through Pay as You Go (PAYE). If you choose not to employ your PA and pay them through PAYE, you may be breaking tax law and at risk of financial penalties if HMRC investigate your arrangements and decide your PA is working under an employee status.

Further information and resources about employment status checking can be found on the **Low Income Tax Reform Group Website** [**www.litrg.org.uk**](http://www.litrg.org.uk)