



**Income Tax Office**

**HM Government of Gibraltar**

# **INCOME TAX AND SOCIAL INSURANCE EMPLOYMENT STATUS GUIDANCE NOTES**

This guide is for general guidance only. It must not be treated as a complete and authoritative statement of the law on any particular case.

**Issued by:-  
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# Employed or Self-Employed?

## Introduction

This guide will help determine whether you are an employee or self-employed. Although aimed at employees, this guide will also be useful for employers.

If you are employed, your employer will need to deduct tax from your pay (through the PAYE system) and deduct the employee rate of social insurance contributions (SICs). However, if you are self-employed, you are responsible for paying your own tax and social insurance.

## Determining employment status

You or the person you work for, cannot simply choose whether you will be an employee or self-employed. It will depend on the terms, conditions and facts of your engagement.

You are

- **self-employed** if you are in business on your own account and bear the responsibility for the success or failure of that business, and
- **employed** if you personally work under the control of someone and do not run the risks of having a business yourself.

## How do I work out my employment status?

The questions on page 3 should help you and the person you work for decide what your correct employment status is, although they are only a brief guide and don't cover every situation.

For each engagement, you will need to look at the whole picture taking account of the written terms and, if necessary, all the facts relating to what happens in practice. Some of these factors will be more important than others, depending on the particular circumstances.

If you work for a company you are almost certainly an employee. You may have a written contract of service or you may be a member of a pension scheme open only to employees.

If you are in business on your own account, you are self-employed. For example, if you run your own shop, or are buying and selling goods, or providing services direct to the public from your own office premises.

Usually it will be easy to decide whether you are an employee or self-employed, but there will be times when it will not be so easy. You will need to look at the job as a whole, taking into account all the conditions that you are

required to work under. This guide will help you and the person you work for to decide, but it is not possible to cover all scenarios and situations.

If you think you are eligible to apply for self-employed status you should request a form S1 from the Income Tax Office. You should be aware, however, that the final decision on your employment status will be made by the Commissioner of Income Tax.

## **Special rules**

Some rules do not follow the normal principles in determining employment status for tax and SICs.

Special rules may apply to certain jobs or positions. For instance, if you are a company director you will have to pay tax and SICs as if you are an employee.

## **Employed or self-employed?**

### **Employee**

If you can answer 'Yes' to the following questions, you are probably an employee.

- Can someone tell you at any time what to do, where to carry out the work or when and how to do it?
- Do you work a set amount of hours?
- Can someone move you from task to task?
- Are you paid by the hour, week, or month?
- Can you get overtime pay or bonus payment?
- Does anyone have the right to select, suspend or dismiss you?

### **Self-employed**

If you can answer 'Yes' to the following questions, it will usually mean you are self-employed.

- Can you hire someone to do the work for you or engage helpers at your own expense?
- Do you risk your own money?
- Do you provide the main items of equipment you need to do your job, not just the small tools many employees provide for themselves?
- Do you agree to do a job for a fixed price regardless of how long the job may take?
- Can you decide what work to do, how and when to do the work and where to provide the services?
- Do you regularly work for a number of different people?
- Do you have to correct unsatisfactory work in your own time and at your own expense?

## Casual, or part-time working

The same considerations to determine employment status will apply even if you work part-time or on a casual basis. Unless you can answer 'Yes' to the self-employed questions above, you will normally be an employee.

## More than one job

- You will need to answer the questions on page 3 for **each** job.

**\*Remember, just because you are employed or self-employed in one job, it doesn't necessarily mean you will have the same status in another job.**

You could even be an employee and self-employed at the same time. For example, you could

- be employed as a part-time shop assistant and spend the rest of your time running your own business from home,
- work full-time in an office as an employee, and run a part-time business in the evening or weekends, or
- be employed as an instructor working only a few hours a week, and run a business of your own the rest of the week.

You may have a number of casual or part-time activities, and in some may be an employee and in others self-employed. It all depends on the facts.

## Tax and Social Insurance contributions

### Employee

It is your employer's responsibility to deduct income tax and SICs from your remuneration and pay it to the Income Tax Office.

### Self-employed

You are responsible for your own tax and SICs. This means that you must

- inform the Income Tax Office that you are in business,
- submit an Income & Expenditure statement at the end of the tax year,
- submit Form IT1 (this will be sent to you by the Income Tax Office in July every year, if you do not receive one you should request one), and
- make payments of your own income tax and social insurance contributions direct to the Income Tax Office.

## When should I register?

You should inform the Income Tax Office as soon as you start working either as self-employed or as an employee.