

About Road Haulage

Factsheet: Self Employment



- Unless they are an owner-driver, it is very rare for a lorry driver to be legally “self-employed” Whether a driver is employed or self-employed is a matter of law, it is not a choice as it is determined by the terms and conditions under which the driver works.
- A driver is not self-employed if they personally work under the control of their “engager” and do not run the normal risks of having a business themselves.
- Operators using agency drivers with self-employed status (or hired through ‘umbrella’ companies) need to know that HMRC are targeting companies they believe are breaking the rules.
- Penalties for companies and drivers found breaking the rules can effectively double the tax bill. HMRC charge interest on top of that.



As an Operator can I be liable for back Tax and Penalties if I engage a self-employed driver that is found to be bogus?

- Yes, you would be liable as the engager for his tax and NI and your own employers contributions, plus penalties and interest.
- If a Driver has his own vehicle and operator’s licence then there is no issue to use the driver as a sub-contractor.

If I use agency drivers occasionally to drive my vehicles, I pay the agency and I am not sure how they pay the driver or his employment status. Is there any risk to me from HMRC and if so what?

- If it is a UK agency, there is no risk to the operator unless the contract specifically leaves the operator open to the tax liability relating to the driver’s employment. This is a common clause in driver supply agreements, agencies generally pass on the liability. With overseas agencies – you are responsible.

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If I employ someone who is through a personal service company (PSC). Is there any risk to me from HMRC and if so what?

- Yes. If the driver is using a PSC as a front there will be no protection for an operator and the operator would be liable for any back taxes if found to have been using the PSC as a front.
- The contract must be with the PSC, rather than the individual worker, both in writing and in reality.

If I use a self-employed driver to drive my vehicle, who drives for various other hauliers. Is there any risk to me from HMRC and if so what?

- Yes. The fact that he drives for others is irrelevant to his tax status and you could be liable, as above.

How can I judge if a driver is genuinely self-employed?

- There is an online tool issued by HMRC that enables operators and drivers to establish if self-employment is genuine or not;
<https://www.gov.uk/guidance/check-employment-status-for-tax>

Are there any circumstances when I can use a self-employed driver to drive my vehicle?

- Yes, HMRC does allow self-employed status for owner-drivers who work mainly for one haulage company (tipper and mixer 'franchised hauliers' for example), but only in certain circumstances.
- The owner-driver has to demonstrate a degree of control over the vehicle's use, and, for example, must be entitled to provide another driver as a substitute for himself if he wishes.

HMRC has just won an important tribunal decision, backing its argument that these types of arrangements do not work as a method to confer self-employed status. HMRC continues to open enquiries into users of similar arrangements that include the provision of workers in many different industry sectors, including road haulage, health, care and education.

HMRC will investigate and challenge these arrangements via every route open to it, including litigation, and seek full settlement of the tax due, plus interest and penalties, where appropriate.

For Further information please contact: c.snape@rha.uk.net