

# TAXING MATTERS

In a series of three articles designed to help the driver understand what is required when entering into the world of self employment or employment, this month we are looking at the requirements of the law and how in practice compliance with HMRC rules are best followed.

## AM I SELF EMPLOYED OR EMPLOYED?

Always a grey area with a significant number of factors that HMRC do consider, each decision made if there is a review of the operator or owner of the cab is entirely dependant on the facts. No two cases are ever the same but maybe similar.

If an agreement takes place whether written or normally verbal, the owner of the vehicle may provide the car fully insured, plated and road legal for AN other to drive. Generally where the vehicle is used whether working through the ranks or under private hire rules, then if the driver simply takes an agreed level of the takings, say 45 per cent, then this is normally accepted as true self employment. This is because the driver can pick and chose their jobs, their earnings determined not on an hourly rate so there is little control from the owner operator of the vehicle.

What can become contentious is the fact some drivers work entirely on this basis undertaking contract work, exclusively day in day out, and this could raise a contention by HMRC that the individual driver has lost their scope to generate income by his own initiatives rather than being told where and when they have to work to comply with contracts. As stated earlier it is a grey area but something the owner of the vehicle should be more aware of as ultimately HMRC would pursue potentially a PAYE settlement from them. Cases become more complicated when HMRC establish that the sub contract or self employed driver has not registered with HMRC. Here we have a case of what is commonly referred to as a tax ghost!

## REGISTERING FOR SELF EMPLOYMENT – WHETHER DRIVING FULL OR PART TIME

This is really a very simple process; you can now go on the HMRC website, select self employment, and register online. Alternatively you can simply telephone the helpline and register, they will send you everything in the post, or print off the registering for self employment form.

## I AM PART TIME, BUT I HAVE ANOTHER JOB

Same rules apply, however if you expect that your net earnings are likely to be under £5705, you can opt to opt out of paying class 2 NIC contributions. If you have employment and pay national insurance contributions then these will be class 1. So there is little point in paying further class 2 contributions if your annual minimum contributions are met at your employed source if your earnings are below the lower class 2 NIC limit. HMRC will always write to you if there is a situation where your NIC contributions fall short of the annual lower limit to get a years credit which will go towards various benefit and state pension entitlements.

## I HAVEN'T REGISTERED AND HAVE BEEN WORKING FOR SOME TIME

Not unusual, but like most things can be sorted out. Currently if a driver has been working whether full or part time the rules have recently changed. The National insurance office side of HMRC

where issuing £100 penalty where the registration for self employment was three months after commencement. Since 6 April 2009 it is now the same as the Self Assessment filing date, which is by 31 January following end of the tax year the self employment commenced.

For example; if a driver started 1 June 2010, this falls in the tax year 6 April 2010 to 5 April 2011, so the registration would technically have to take place by 31 January 2012. However it is best to register as soon as possible, reason being your class 2 national insurance has been accumulating since 1 June 2010 and they will attempt to collect the arrears all at once. Class 2 NIC is generally collected by direct debit and any arrears are collected with the first payment.

There are cases where drivers have been working for several years without telling HMRC. For some it is something that prays on their minds and they simply do not know what to do. It is probably feared by the fact a big tax bill can be expected, however the situation does need to be resolved and there are ways to go about it. To allay any fears that the driver would go to prison, this does not happen. In simple cases of failure to notify or late submission of accounts/returns, yes there are some penalties that will be charged however we will cover this in further articles over the next couple of months, but the important thing is to get the ball rolling and get registered.

## WILL I GET FOUND OUT?

All that can be said on this subject is there are a number of ways HMRC may stumble across the unregistered driver.

All drivers are licensed by their local authority, which in turn hold various information that HMRC from time to time demand using statute. This information is then placed on a National database and the Risk and Intelligence side of HMRC can then access. Sometimes they simply check that all licensed drivers are on the 'system'. There are teams who working with other government agencies target 'taxi ranks' or large operators to see if the drivers are registered with HMRC using mobile data machines to check on the spot. Other avenues are through third party information, anything from a scorned partner, neighbour or any other individual who reports on confidential HMRC reporting lines.

## SO WHAT DO I DO?

You can simply contact HMRC to make a full disclosure and they in turn will give you as much assistance as possible. There are plenty of enquiry centres still open and you could arrange an appointment with an officer who will point you in the right direction as to what they will require from you.

You can always go to see a good accountant and seek their advice even if you feel you are lacking in having kept all of the paperwork over the period you have been working, as there are ways of tackling problems such as this. Do not be afraid to ask how much the accountant will charge as this is often overlooked.

**Paul Taylor, PBT Tax Solutions, Tel 01224 536194**  
**If you need advice on any tax queries please email:**  
**[pbttaxsolutions@gmail.com](mailto:pbttaxsolutions@gmail.com)**