

Office of Tax Simplification – Employment Status Project

The OTS needs your help! We are gathering evidence of where the complexities lie in determining whether someone is employed or self-employed for tax. We would be very interested in receiving input from the businesses and individuals involved, together with representative groups and professional advisers.

The website sets out our Terms of Reference on this project. Whilst we do not wish to constrain contributors, the following questions may help guide your responses:

- What industry/trade are you from, and if representing a group, how many members do you represent?
 - What are your thoughts/ general observations on the current law and HMRC practice on employment status?
 - Are there any specific issues for your industry?
- How have working patterns/arrangements changed over the last few decades?
 - Has the manner in which people are engaged changed over recent years? Do you expect it to change in future? If so, how?
 - Is that specific to your industry or more general?
 - Who drives employment status decisions? The engaging business, the individual or a third party such as an adviser or intermediary? Or is it a mutual agreement?
- What are the uncertainties, if any, around employment status questions in the tax system?
 - Are there actually uncertainties, or do you find it works well and that you understand the position?
 - If you consider the position to be uncertain, how do you handle this/manage your risk? Roughly what proportion of cases you come across are straightforward?
- How does the tax system manage these problems?
 - Do you find the tax position to be compatible with employment law aspects/current working practices?
 - Are other areas of law such as National Minimum Wage and statutory benefits in conflict?
 - Is tax the main driver in how a business chooses to engage people? Or a combination of some/all of the above?

- What interactions have you had with HMRC in this area?
 - What has been your experience in any dealings with HMRC?
 - Was there a consensus of opinion, or were there difficulties to resolve? Was this through a compliance review or an enquiry?
 - Is this an area you would proactively engage with HMRC? Or do you wait for HMRC to approach you? Why?
 - What are your views of the HMRC guidance/publications around employment status?
 - What has been your experience on using the HMRC Employment Status Indicator?
 - How easy do you find it to use/answer the questions?
 - If you do not use it, why not?
 - Has HMRC requested that you use the ESI?
- What are your views on a possible statutory employment test?
 - If you think this is a possibility, do you have any thoughts on how it could be designed, i.e. what tests and factors to include?
- International experience/comparisons
 - Are you aware of how any other countries deal with this issue?
 - Is there a particular model you would recommend/suggest we follow?
- Finally, in an ideal world, where would you like this issue to be, in say 5 years' time?

You can email John Whiting and the team at ots-employmentstatus@ots.gsi.gov.uk. Whilst we welcome responses at any time, as aim to publish our report at the end of February 2015, it would be most useful to receive input by 31 December 2014.