

Help with the tax implications of engaging a personal assistant.

Receiving a direct payment and employing a personal assistant (PA) brings with it many tax and national insurance obligations which can be daunting and confusing to new employers. With the aid of an HMRC grant, the Low Incomes Tax Reform Group have set up the Disability Tax Guide website www.disabilitytaxguide.org.uk to help advisers, individuals, social workers and user-led organisations comply with these obligations.

This article briefly explains the areas that cause most difficulty when taking on a PA and explains more about the help available.

Self-employed or employed?

One of the most common areas we are asked about is whether a PA should be employed or self-employed. More confusion seems to surround this than any other subject.

The most important point to note is that the employment status of a personal assistant is not a matter of choice. An individual cannot just “decide” that a personal assistant is self-employed. Self-employment would be an attractive option because it would remove many responsibilities from the person taking on the PA and save them some money. However it is the responsibility of anyone taking on a PA to check the status carefully.

The first step in every case is to refer to HMRC’s [Employment Status Indicator](#) tool. This essential and useful tool takes the form of an online questionnaire, the answers to which produce a ruling as to whether someone is self-employed or employed. The completed form should be saved and printed out for future reference in case HMRC ever challenge the decision. The tool is based on tax legislation and many years of tax cases too numerous to mention. But the Disability Tax Guide website has more detailed guidance on the general rules surrounding employment status.

It is not *impossible* for a PA to be self-employed but it is unlikely in most cases that all the tests, once applied by HMRC, will result in a self-employment decision.

Taking on an employee and setting up as an employer

Once employee status has been confirmed, the next step is to register as an employer with HM Revenue and Customs (HMRC) so that a payroll can be set up. This is an easier process than it sounds and we provide step-by-step guidance on the Disability Tax Guide website.

An employer must register with HMRC if any of the following are true:

- they are paying an employee at or above the PAYE threshold (£204 per week in 2015/16);

- they are paying them at or above the National Insurance Lower Earnings Limit (£112 per week in 2015/16);
- the employee already has another job;
- the employee is receiving a state, company or occupational pension;
- the employee is receiving employee benefits.

If you are taking on a PA, you must do this by phone. The HMRC new employer number is 0300 200 3211.

Payroll and “Real Time Information”

“Real time information” (RTI) is the system used to send information about Pay As You Earn (PAYE) tax and National Insurance to HMRC.

There are two ways the information can be sent - online, or, if certain requirements are met, on paper. More detail on when paper filing can be used is available on the Disability Tax Guide website. Broadly, it is available for those who, for whatever reason, may be unable to use a computer or have no internet capability.

For online filing, a payroll program will be required and there are several options on the market including some free ones. We explain all of the options on the Disability Tax Guide website. For employers choosing to use HMRC’s free Basic Payroll Tools (BPT) we have a unique tool on the site that enables you to [create a payslip](#) – something that BPT cannot do.

Pensions auto-enrolment (Workplace pensions)

Every employer with at least one member of staff now has (or will soon have) a new responsibility of putting those employees who meet certain criteria into a workplace pension scheme and contributing towards it. This includes those who take on a personal assistant and direct payment users should speak to their Local Authority regarding their budget to pay for these extra costs.

The process is called automatic enrolment. This is because it is automatic for staff – they don't have to do anything to be enrolled into the pension scheme. But it is **not** automatic for an employer and there are several things that the employer has to do.

There are links on the Disability Tax Guide website to the appropriate guidance on the Pensions Regulator website. This includes their step-by-step guide to automatic enrolment to help employers work out what to do and when. Special mention is given to those employing staff in their home, such as a PA.

National Minimum wage

Employers must pay staff the correct National Minimum wage. The current rates are on the Disability Tax Guide website.

A new “National Living Wage”, introduced via a premium to the National Minimum wage, will be introduced for some people from April 2016 and will be compulsory if it applies. From April 2016 the National Living Wage will be set at £7.20 for those workers aged 25 or over. There are already reports and concerns from the care sector surrounding this, and as reported elsewhere on community care this is very much a work in progress with the government.

We will report on the latest developments on this in our regularly updated news section.

Further help

The Disability Tax Guide website (www.disabilitytaxguide.org.uk) has been produced by the Low Incomes Tax Reform Group (LITRG) and brings together comprehensive information and guidance on all taxation matters surrounding employing a PA.

Funded by HMRC, the website also has information about other disability related tax issues and has links to organisations who provide information about employment law issues when taking on a PA. There are [factsheets](#) to download on many key subjects, a helpful first steps guide [“Taking on a personal assistant – a basic guide”](#) and a [free email help service](#). A [regular news](#) feature means the most up to date disability related tax matters are highlighted.

As well as running the website, we have over the past year held a series of workshops with Disability Rights UK that were extremely popular. We have also worked with organisations such as Skills for Care to provide tax information to support their work with people taking on a PA.

Until April 2016, we are running a free email help service which offers help and guidance to website users on tax and national insurance queries related to taking on a PA. Queries can be sent to litrgdtg@litrg.org.uk

If you have any comments about the Disability Tax Guide, and have any suggestions about additional material we could feature please get in touch by emailing litrgdtg@litrg.org.uk