

What's your worker's employment status?

Many people believe that workers in the construction industry who hold a CIS4 or CIS6 card should be treated as self-employed for every job they do until that card expires. That's **not** true. The terms of each job must be examined separately.

When you hire someone, whether in the construction industry or otherwise, you need to determine whether the worker will be fully under your control and should be paid through the payroll as an employee, or if he will have a degree of independence. If the worker has rights that an employee is unlikely to have, such as being able to provide a substitute to complete the task he is likely to be self-employed. Only if you conclude that the worker is genuinely self-employed for the task in hand should you consider paying him gross on production of an invoice. The CIS card will tell you if 18% tax should be deducted under the Construction Industry Scheme.

The Inland Revenue is currently writing to many sub-contractors in the construction industry implying that they should be treated as employees of the contractor they work for rather than self-employed workers. Contractors are also receiving similar letters which say the Revenue has doubts about the employment status of their workers.

Both standard letters say the Revenue's records indicate that the sub-contractors may be incorrectly treated as self-employed, but this statement needs to be taken with a pinch of salt. We very much doubt that the Inland Revenue holds the necessary paperwork to prove that a particular worker is incorrectly classified as self-employed.

The difference between being an employee or a self-employed worker can be very small, especially where the worker has a specific skill and cannot be told exactly how to perform his work by the person who hires him. To reach a correct conclusion the terms of the specific engagement must be examined. As many workers do not have a written contract this will normally mean speaking to both sides; the contractor and the worker, to find out what happens in practice.

If you receive one of these Inland Revenue letters either as a contractor or a sub-contractor please come and speak to us as soon as possible.