

‘Enabling letters’ from the Inland Revenue

Enabling letters are letters sent out by the Inland Revenue to ‘enable’ people to comply with their responsibilities under the tax legislation. There have been two recent exercises – one aimed at the self-employed (sole traders and businesses with turnover up to £150,000), and one directed at the construction industry.

Many self employed people have received letters which they have found worrying, as they suggest that something was wrong with the return for the previous year. The letters don’t specify what (if anything) was wrong, but just indicate areas where mistakes are often made. For instance, types of expenses which may not be deducted, or where it may be necessary to disallow part of an expense for private use. Taxpayers are encouraged to look closely at their records, and make sure that their return for 2003/04 doesn’t include mistakes of this sort. Anything which helps taxpayers get their returns right without a full ‘enquiry’ must be good news. But getting an enabling letter doesn’t mean there was anything wrong before. Because the Inland Revenue’s systems use a statistical basis to assess the risk that a return is wrong, it may just be that there are particular circumstances for the business. For instance, a high proportion of expenses/low profit margin might be a reason for looking closely at the expenses. But inevitably not all businesses, even in similar industry sectors, make ‘average’ levels of profits.

Currently the Inland Revenue is also targeting the Construction Industry on the specific subject of the status of workers. Both contractors and subcontractors are being contacted to warn them of the consequences of wrongly classifying workers as self-employed when they are employees. The exercise will involve sending out about 57,000 letters. The letters invite the contractor or subcontractor carefully to consider the question of employment status.

The letter to contractors says ‘We’ve looked at our records and have some doubts about the employment status of some of your subcontractors’. It goes on to say ‘it’s the terms, conditions and facts of the engagement that determine whether a subcontractor is employed or self-employed and not whether they hold a CIS card’.

The letter then warns of possible tax and national insurance liabilities, together with interest and possible penalties, if a subcontractor has been wrongly classified as self-employed. The result for a contractor with a number of subcontractors could be very significant. It is a good time for all involved in the construction industry to review employment status.

The enabling letters are part of the preparation leading to a new Construction Industry Scheme which is proposed for implementation in April 2006. Consideration is also being given to withdrawing the current concession whereby the tax deducted from sub-contractors under the Construction Industry Scheme can be offset against any PAYE settlement from an employer who has failed to tax their workers correctly as employees.

There are two Inland Revenue guidance leaflets on this subject, IR 56 ‘Employed or Self-Employed?’ and the comprehensive IR 148 ‘Are your workers employed or self-employed? A guide to tax and national insurance for contractors in the construction

industry'. These are available from the Inland Revenue website on the following links [IR 148](#) and [IR 56](#).

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