

RADIO INDUSTRY GUIDELINES 2008

OUTLINE OF ARRANGEMENTS

1. Employment Status of Radio Presenter/DJ

If an individual is on the 'staff payroll' and is engaged under a **contract of service** (i.e. employment), PAYE and Class 1 NICs will apply. Individuals on any other type of contract will not be within PAYE or liable to Class 1 NICs provided that the contract meets the criteria for a **contract for services** (i.e. self-employment).

These guidelines should be applied solely to the Radio Industry to determine the employment status of a Radio Presenter/DJ. **You can get more general guidance on employment status from the HMRC web-site at www.hmrc.gov.uk/employment-status/index.htm which should be read in conjunction with the Radio Industry guidelines.**

A contract for services is more likely to exist where all or most of the following conditions apply:-

- 1.1 The contract is for a specific programme at a specific interval for a fixed term (eg where a presenter presents a programme once a week on a fixed term contract)
- 1.2 The method of remuneration is by way of a fee per programme. In this situation there is more risk of not being paid compared to an employee who is paid a regular wage or salary.
- 1.3 There is no roll-over situation (eg the engager gives no guarantee to negotiate the next contract).
- 1.4 The Radio Presenter/DJ is free to pursue other engagements that do not conflict with the radio presentation (i.e. the contract is non-exclusive.)
- 1.5 There is no requirement to provide cover for staff shortages. This would suggest that the right of control by the engager over the Radio Presenter/DJ is low.
- 1.6 There is no right on the part of the radio station to move the Radio Presenter/DJ from task to task (e.g. presenting to scripting, editing, producing, voicing etc...) without the agreement of the Radio Presenter/DJ.
- 1.7 The presenter has creative input into the programme.

1.8 The engager does not have the right to control the manner in which the Radio Presenter/DJ carries out the work outside of observing the regulatory requirements of the industry (i.e. Ofcom Code, BBC Trust etc.)

The above guidance will enable engagers to recognise self-employment features of a contract with a presenter. However, please keep in mind that it is also important that:

1.9 The contract accurately reflects the true terms and conditions and is not simply a case of wording the contract to reflect a contract for services.

1.10 In practice, the actual services required of the presenter do not extend over and beyond what they are contractually required to do.

2. Other Personnel

With the exception of certain defined categories shown on the schedule attached, PAYE and Class 1 NICs must be deducted in respect of payments to all other Personnel who are not self-employed.

3. Entertainers

Guidance about ‘Entertainers’ can be found on our Website at www.hmrc.gov.uk/guidance/nicrules-ents.pdf

4. Taxpayers’ Right of Appeal

This agreement relates only to the deduction of tax, NICs and VAT. It does not apply for other purposes for example National Minimum wage or Employment Protection Legislation. This agreement does not prejudice the right of appeal by the individual taxpayer.

5. Further Guidance

Where employment applies and the PAYE and NIC Regulations are operable, then the instructions in booklet CWG2 (Employer’s Further Guide to PAYE and NICs) must be applied without exception with special attention being paid to Chapter 5 pages 73 to 77, which gives advice on what constitutes pay for tax and NIC purposes and what is included and excluded.

RADIO INDUSTRY

LIST OF GRADES WHERE SELF EMPLOYMENT IS ACCEPTED

A. Engaged on a Freelance Basis for a specific subject:

Story Editor

Writer (excluding Reporter)

Sound Recordist/Mixer (where the contract requires substantial provision of equipment)

B. Engaged on a Freelance Basis for a period of less than 9 months:

Producer

Co-Producer

Executive Producer

Associate Producer (except where engaged primarily for general research)

Director

Art Director

Casting Director

Musical Director

Musical Associate

Editor

Composer

C. Translators

The work must be performed other than on premises provided by the engager.

D. Language Assessors:

Where used on an occasional basis to check style and delivery of foreign language broadcasts.

E Cricket Scorers:

Providers of occasional information, eg tip offs, racing tips, news and sport engaged for a period of less than 9 months.

F Freelance News & Sports Reporters & Commentators:

This category is not intended to cover Reporters and Commentators who present their finished work on the Air as they are covered by paragraph 1 as Radio Presenters. This category is intended to cover Reporters (often with a full time job with a newspaper), who are paid on a per contribution basis for the supply of news and sporting information and stories, who are commissioned as and when news and sports stories arise.

E. Score Readers:

This heading covers both musical scores and sporting scores.

F. Auditioners:

Where they are engaged for a period of less than 9 months. This category covers somebody who does not normally work within the Radio Industry and is engaged when there is a lot of auditioning to be done, eg for a talent show. Often an established entertainer in their own right. Normal auditioning would be done by a Producer or Director and is not covered by this category.

G. Contributors to Concerts Publicity & Prospectus:

Non-staff Contributors where payment is made on a per contribution basis. An example would be a person of renown in the musical world who contributed a piece on Beethoven for a concert prospectus.

H. Specialist Researchers

Where the worker has either an existing profession outside TV/Radio (eg Academic, Legal Adviser, Doctor etc) or specialist knowledge of the programme content to be researched and the worker is engaged for a specific project and is not a regular contributor. Excluded are those people used by the Radio Industry to carry out research over a wide variety of fields, eg in news and current affairs, investigative journalism.

I Special Effects Man

Where the contract requires provision of necessary equipment by the worker.