

Supply Teachers: You and Your Tax

Produced in association with



Crowe Clark Whitehill

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1. Introduction

As a supply teacher, your employment arrangements can be more complex than those of permanent teachers. In turn, this can lead to increased complexity when it comes to dealing with UK Income Tax. In conjunction with tax advisers Crowe Clark Whitehill LLP, the NASUWT has put together this guidance to assist you.

i. Helping you manage your tax affairs

The aim of the guide is to give you a better understanding of the UK tax system as it applies to your situation, to help you avoid potential pitfalls and manage your tax affairs more effectively.

Our objectives are to provide you with:

- a concise overview of the UK tax rules that are relevant to supply teachers;
- practical information that should be useful when it comes to managing your tax affairs; and
- guidance on 'non-standard' employment arrangements (e.g. umbrella companies) and the potential implications for you.

This guide will be of use to peripatetic teachers as well as supply teachers and is based on current legislation as at 6 April 2014. We aim to update the guidance as and when future legislative changes occur.

ii. What does the guide cover?

The guidance deals with the practical implications of Pay As You Earn (PAYE) and National Insurance Contributions (NICs) for supply teachers, including the use of tax codes, allowable expenses and record keeping. As well as covering those teachers who have employment contracts with the organisations to which they are providing services, this document explains the position for teachers who work via local authorities and academy pools, employment agencies and umbrella companies. This guidance also explains the difference for tax purposes between being employed and being self-employed and the various reliefs that may be claimed as an employed or self-employed supply teacher.

Finally, this publication also provides guidance on the UK self-assessment system since, irrespective of the employment arrangements, supply teachers are often required to file UK income tax returns.

We trust that you find this guide helpful. If you have any comments or suggestions for future versions, please do not hesitate to contact the NASUWT Finance Team at finance@mail.nasuwt.org.uk.

It is important to note that the NASUWT is not able to offer members specific tax advice, so you should not rely exclusively on the guidance in this document to determine your income tax position. Members with a specific query about their own tax situation, or who are concerned about whether they are being taxed correctly, should contact HMRC or seek professional assistance.

2. An introduction to UK Income Tax

i. The UK tax system

UK Income Tax is calculated by reference to the 12 months which run from 6 April to the following 5 April. This is known as a tax year. It is often referred to by naming the two calendar years; for example, 2013-14 refers to the tax year ending 5 April 2014.

To work out your tax liability, you first need to calculate your total income for the tax year, excluding any types of income which are exempt from tax. Exempt income includes statutory redundancy payments, maintenance payments, gambling winnings, maternity allowance, working tax credit and child tax credit.

Assuming you are a UK resident for tax purposes, you can offset the UK Personal Allowance (PA) against your UK income. The PA for 2013-14 is £9,440 and for 2014-15 it will be £10,000.¹ You are only entitled to one PA in any tax year, irrespective of the number of employments that you hold.

The income that you receive in excess of your PA is taxed at 20%, 40% or 45% depending on which band it falls into. The 45% band is only for income in excess of £150,000.

ii. PAYE and NICs

If you are employed, it is likely that your income will be subject to PAYE and NICs which are withheld via a payroll (see Section 4). The responsibility for operating PAYE and NICs correctly normally rests with your employer. Your employer for PAYE purposes will depend on whether you are directly employed by an organisation, work via a local authority/academy pool, an employment agency or under an umbrella company (see Section 3).

You should note that since 6 April 2013 employers have been obliged to report all payroll information, including details of joiners and leavers, online to HMRC in real time, each time they run the payroll. This system is known as Real Time Information (RTI) and is intended to enable HMRC to respond rapidly to changes in an individual's circumstances and to adjust tax codes more accurately.

iii. Self-assessment

If you are self-employed for tax purposes (see Appendix II), then you will be required to report any income via a self-assessment tax return (see Section 6) and pay any tax due by 31 January following the relevant tax year end. You may also be required to make payments on account towards your tax liability (see Page 18).

Even where you are employed and taxed under PAYE, you may still be required to complete a UK Tax Return where:

- a. HMRC has sent you a return to complete or issued a formal notice requiring you to complete a return

and/or

- b. you have untaxed income to report (e.g. bank interest, rental income or any income which has not been subject to PAYE in full).

¹ Note, however, that if your total income exceeds £100,000, your PA will be reduced by £1 for every £2 of excess. You will have no PA at all if your total income reaches £118,800 in 2013-14 or £120,000 in 2014-15.

Where you have not been sent a tax return to complete or do not have any untaxed income, you may still want to file a tax return where, for example, you have paid too much tax under PAYE during the tax year, or possibly too little due to multiple employments.

iv. Employment versus self-employment

Your tax status is important, especially where you are claiming to be self-employed, as this will determine whether or not you are subject to PAYE and what deductions and reliefs you may be able to claim. Whether you are employed or self-employed for tax purposes is not a matter of personal choice but depends on the nature and terms of your engagement with the organisation you are working for.

HMRC looks very closely at cases where individuals are claiming to be self-employed and, in many cases, will seek to argue that individuals should, in fact, be treated as employees for tax purposes rather than as self-employed. Please see Appendix II for further details on determining your tax status.

v. Employment arrangements

In addition to having a direct employment relationship with the establishment to which you are providing services, supply teachers are often employed via agencies, local authority and academy pools and umbrella companies. Under these arrangements, it should normally be your contractual employer (i.e. the agency, local authority / academy or umbrella company) who is responsible for deducting PAYE and NICs from your pay.

However, supply teachers should familiarise themselves with the particular arrangements they are employed under and ensure that PAYE and NICs are being operated correctly, especially where you are employed by an agency or umbrella company.

A number of changes arising from the Chancellor of the Exchequer's 2014 Budget may mean that, where previously a supply teacher would have been treated as self-employed by an agency, the agency will in future be compelled to treat that same teacher as a PAYE employee (see Section 3).

3. Employment arrangements

Set out below are the main arrangements under which supply teachers can be employed. In addition to exploring the general pros and cons of each arrangement, further details are also provided on the PAYE and NICs implications for you under each arrangement.

i. Direct contract (with school, college or academy)

Many supply teachers are employed directly by the establishment for which they work. You may be working for just one establishment or for several. Either way, you should have a contract of employment with each organisation to whom you are providing your services.

Overview



Pros and cons

This option is good if you have strong personal relationships with individual schools or colleges and can obtain regular assignments.

Pros	Cons
Personal contacts	Time-consuming to obtain work
Better daily/hourly rates	Limited HR support
No intermediary	Tax code implementation

Tax implications

The tax implications of a direct employment contract with the organisation you are working for are normally straightforward as the organisation will be responsible for operating PAYE and NICs. However, the position may become more complex where you have several separate employments (see Section 4).

- On starting a new role, you will be required to present your most recent P45, if available, to your new employer (or each of your new employers where you have more than one). Please be aware that you can only present a P45 from your last employment to one new employer.
- If you have no P45 when you start, your employer should ask you to complete a New Starter Form. This is the equivalent of the old P46 form which it has replaced since the introduction of RTI. This will inform HMRC whether:
 - a. this will be your first job of the tax year, or
 - b. you have worked before but this now your only job, or
 - c. you have another job.

Where you have another job, the default position is that your Personal Allowance will be given to you in the tax code with your existing employer and you will be given tax code 0T ('no allowances') for the new assignment.

Consequently, if you obtain assignments from a number of different schools you may pay more tax under PAYE during the year than you should, and you may have to wait until the end of the tax year before you can claim a refund. Equally, you could pay too little tax if under PAYE most of your income is taxed at 20%, whereas in aggregate some of your income should be taxed at 40% – the remaining tax will become due under the self-assessment system (see Section 6) in due course.

The only circumstances in which you will not be subject to PAYE and NICs by the organisation you are working for is where you are claiming to be self-employed. You should review Appendix II if this is the case. Normally, the employing organisation will need to be satisfied that you are genuinely self-employed before agreeing that PAYE and NICs are not required. If you are genuinely self-employed and the employing organisation agrees, you will need to settle your tax via self-assessment (see Section 6).

You may also work via your own Personal Service Company (PSC).² If so, you should be

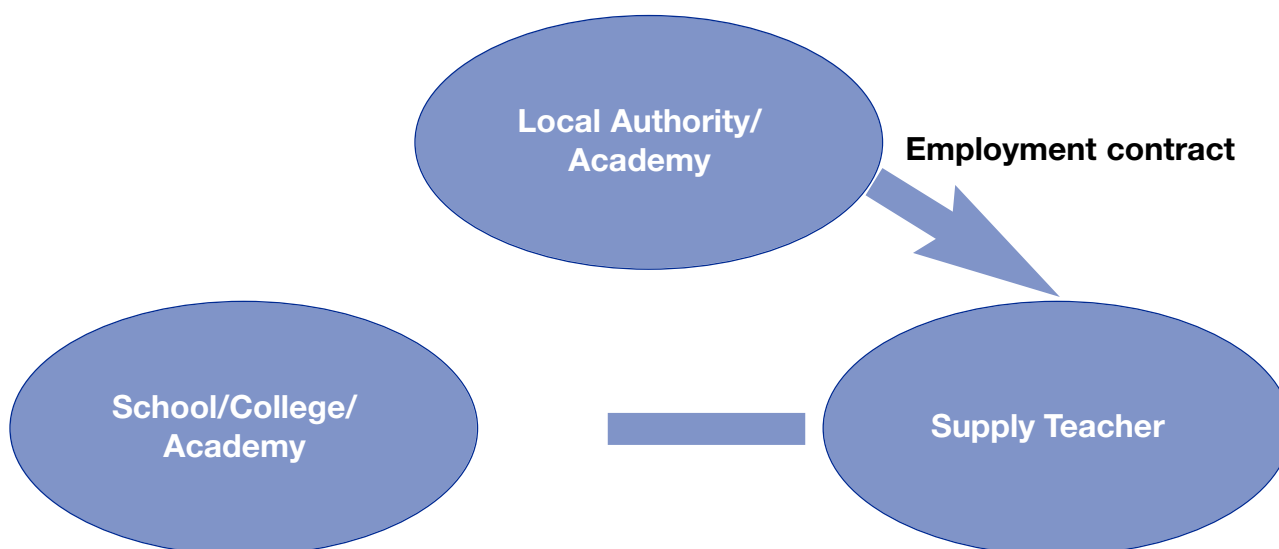
² The House of Lords Select Committee on Personal Service Companies (2014) reported that "The term 'personal service company' is not defined in law. It is understood generally to mean a limited company, the sole or main shareholder of which is also its director, who, instead of working directly for clients, or taking up employment with other businesses, operates through his company. The company contracts with clients, either directly or through an agency, to supply the services of its director."

aware of the IR35 rules (see Appendix III) which may require you to operate PAYE and NICs on 'deemed' payments made from the school or academy to your PSC.

ii. Local authority and academy supply pool

Where you provide your services via a local authority/academy supply pool then the local authority or academy will normally be your employer. The school, college or academy would normally seek staff from the pool but there would be no direct contractual arrangement between the local authority and the organisation for which you are providing services.

Overview



Pros and Cons

Pros	Cons
Simple PAYE process (one pool)	Multiple income streams
Better economy of effort compared with direct liaison with each school	Potential tax overpayment to be recovered at year end
Pay based on experience and qualifications	Potential tax underpayment to be recovered at year end
Access to Teachers' Pension Scheme	

Tax implications

Where you are employed via a supply pool, the supply pool will be required to operate PAYE and NICs. PAYE should be simple if you obtain work from a single supply pool. However, if you use more than one supply pool, there could be a more complex taxation position for you to manage, with the tax code that gives you your personal allowances being assigned to your 'main employer' and the other pool(s) taxing you without allowances.

This may impact on your cash flow, with you paying more or less tax during the year than due, and having to wait until after the year-end tax assessment is complete before you know what additional tax you have to pay, or what tax refund might be payable to you.

HMRC may adjust your subsequent tax code to compensate for any over- or underpayment.

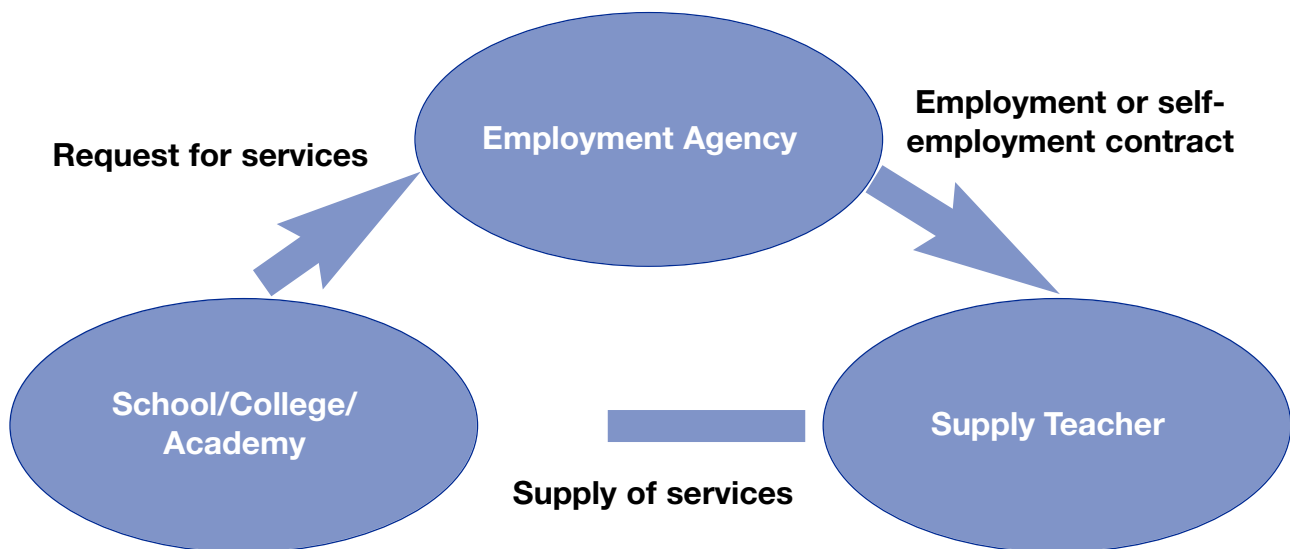
iii. Employment agency

Overview

An important gateway to employment for many supply teachers is registering with one or more employment agencies. Many supply teachers choose to register with several agencies in order to gain access to a wider range of work assignments.

In some cases, the teacher will not be an employee of the agency. However, agencies may operate PAYE and NICs on the income that they pay to you on the basis that your duties are deemed to be employment duties under the legislation rather than the duties of a self-employed individual.

In some cases, the agency may employ the teacher directly with an overarching contract (see 'Umbrella Companies' section below).



Pros and cons

Pros	Cons
Economical way to find work	Multiple income streams
PAYE simple (if registered with one agency)	Complex income tax (if registered with multiple agencies)
	No access to Teachers' Pension Scheme
	Pay rates determined by individual agencies
	Lower daily/hourly rates

Tax implications

Normally, where you are engaged via an agency, the agency will operate PAYE and NICs. However, in some cases, a teacher may be claiming to be self-employed – or the agency may insist that the teacher is self-employed – on the basis that the teacher is not required personally to provide services (i.e. the agency can potentially send a substitute in your place).

From 6 April 2014, agency workers formerly treated as self-employed may be subject to PAYE and Class 1 NICs where it can be shown that they work under the supervision, direction and control of the organisation at which they are teaching. If you are in this position, then you should as soon as possible contact the agency concerned.

Ultimately, it will be the agency's responsibility to operate PAYE and NICs on your income under the new rules, unless the agency is based outside the UK (in which case it will be the organisation where you are teaching that is responsible). However, teachers will no doubt want to know what financial impact this may have on them, as it may change the basis on which they are taxed (i.e. as an employee rather than self-employed) and may also affect the expenses that they can claim.

Where you are currently being subject to PAYE and National Insurance by an agency, the PAYE taxation should be straightforward if you only use one agency and you should receive the correct cumulative treatment. However, being registered with several agencies may complicate the position, as you will usually have to nominate one as your 'main employer' for PAYE purposes. This agency will usually apply your main tax code, while secondary agencies will deduct tax using one of the two-digit tax codes explained in Appendix I.

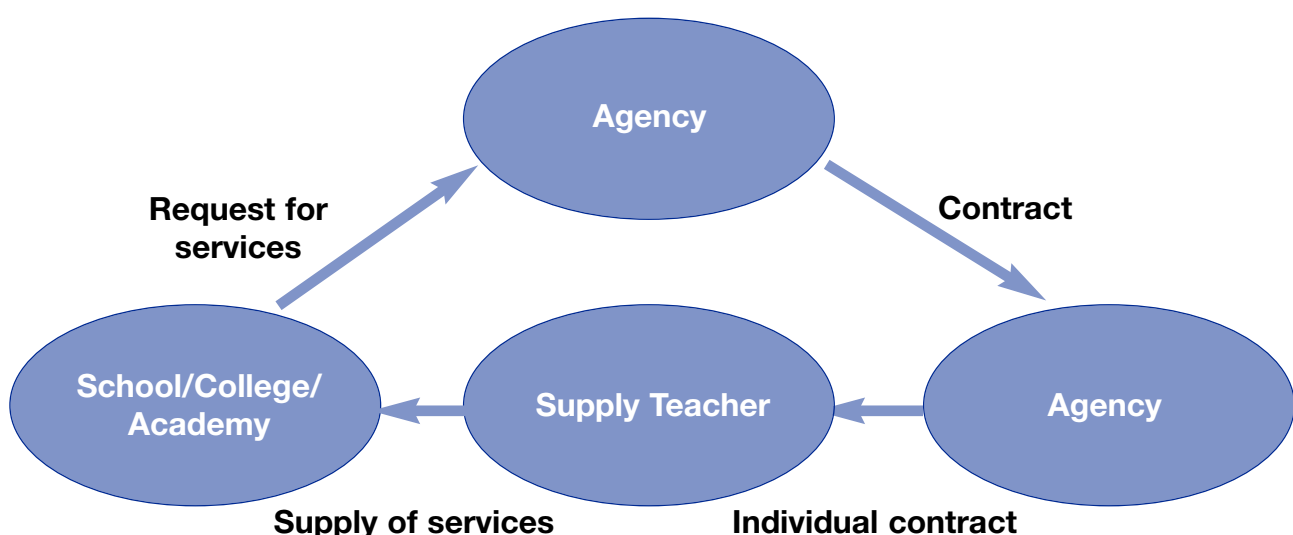
A clear tax position will not be available until after the financial year end, when you will submit a tax return of your multiple income streams and any tax over (or under) payment will be assessed by HMRC. So, you may be paying more tax than due during the year.

iv. Umbrella companies

Overview

There has been a proliferation of umbrella companies over recent years. Normally, supply teachers will have an overarching employment contract with the umbrella company whereby the umbrella company is treated for tax purposes as the employer and, as such, the employer sends the teacher on temporary assignments to the organisations where they are teaching.

Part of the reason that umbrella companies are used is that there is often beneficial tax treatment available in respect of travel, accommodation and subsistence expenses associated with supply work. However, the UK Government and HMRC have concerns that some umbrella companies are avoiding UK taxes and so there are question marks over the way they currently operate.



Pros and cons

Pros	Cons
Economical way to find work	Pressure to claim expenses
PAYE simplified	Lower day/hourly rates
	Potential HMRC liability on employee
	No access to Teachers' Pension Scheme
	If the umbrella company is offshore – faceless/ no direct contact if problems arise

Tax implications

Where you are working for an umbrella company, it is the umbrella company's responsibility to operate PAYE and NICs. This will normally simplify the process of deducting tax and tax codes, since you will only have one employer (i.e. the umbrella company).

From a tax perspective, it may be possible to claim tax relief in respect of travel, subsistence and temporary accommodation expenses in respect of providing your services (see Section 5). There have been wide-ranging concerns raised by HMRC and government over recent years as to the fairness of umbrella companies enabling their workers to claim expenses deductions that are not available to other workers. There have also been cases where erroneous claims for tax relief have been made, the most notable being *Reed Employment plc v HMRC* (2012).

In view of this, the NASUWT recommends exercising caution before entering into such a contract. This is because of the liability that supply teachers may personally face, should the assumptions on which these companies operate be challenged and upheld.

If a teacher has relied on the 'overarching contract' to define their employment status, and claimed tax reliefs on this basis, they may have been working under a false assumption.

In certain circumstances, HMRC could issue the teacher with a retrospective tax bill for any tax allowances they have claimed which are not allowable. The recourse against the umbrella company for their advice may be hard to enforce, particularly if they have protected themselves against this in the small print of the teacher's contract by transferring the risk to the teacher.

Further details on travel, subsistence and temporary accommodation expenses are included in Section 5.

Additional considerations

For any 'overarching contract' to be effective, there has to be 'mutuality of obligation' between the teacher and the umbrella company over the duration of your contract, meaning that the contract should state that the teacher will receive a minimum number of contracted hours and potentially, therefore, payment between assignments. Equally, the teacher should have a guaranteed minimum number of hours of work, which would provide an income safety net. However, the contract may prevent an individual from taking on work from other sources during this period, even if there are limited assignments.

Further considerations are that the hourly or daily rate is likely to be relatively low, although the umbrella companies would claim that you are still better off through being able to claim tax relief for your travel expenses. You would be unable to benefit from the Teachers' Pension Scheme.

Finally, remember that for tax reasons many of these companies are situated offshore and may not be easy to get hold of should the need arise.

4. PAYE and NICs

i. PAYE

Most people working in the UK are taxed through the PAYE system, operated by HMRC through employers, so that tax is deducted on account from monthly or weekly pay during the financial year (6 April to 5 April) rather than collected at year end.

Most employees are entitled to a certain amount of tax-free income each year (the Personal Allowance) and the PAYE system is designed to give employees the benefit of their tax free allowance in 'slices' each pay day, so that at the end of the tax year the employee has paid approximately the right amount of tax for the year.

If the amount of tax shown on your payslip appears too high or too low, the fault may not lie with your employer. Under PAYE, your employer(s) is not permitted to use any tax code other than the most recent one they receive directly from HMRC. If your estimated income on the tax code notification from HMRC appears much too high, it may be worth contacting HMRC to give them a more accurate (and honest) estimate of the income you anticipate earning that year, which may improve your tax code. Alternatively you can leave it to the PAYE system to refund the overpaid tax when you leave a job or at year-end.

ii. Tax code

Each employee is given a tax code for the financial year by HMRC. The tax code normally consists of a number followed by a letter.

To calculate your tax code, HMRC takes your Personal Allowance for the year, then adds any additional amounts or positive adjustments that may be due to you, then subtracts any restrictions that may be due; for example, to account for tax on benefits or savings interest or to recover any underpaid tax from an earlier tax year.

The last digit is then removed from the answer, leaving your tax code. For example in 2013-14 a Personal Allowance of £9,440 with no adjustments would leave a code of 944. The suffix L would then be added, indicating that the code could be automatically adjusted for Budget increases at the start of the next tax year. The suffix T would indicate a code that contains a number of adjustments and which should only be amended when notified by HMRC.

When the adjustments to your Personal Allowances leave a negative amount, the last digit is removed and a prefix K is added. This is a negative tax code and means that, instead of deducting a tax-free element from your pay before calculating your tax, your employer has to add a notional amount. Other codes you may come across are:

- BR – everything to be taxed at the Basic Rate of 20%;
- OT – no adjustment for tax-free pay, everything taxable;
- D0 – everything to be taxed at 40%;

- D1 – everything to be taxed at 45%;
- NT – nothing to be taxed at source.

The tax code system works best with employees who have a single source of employment income and work regularly for the same employer. It is likely to work less smoothly with supply teachers. This is because you may have a succession of separate employments, or hold more than one employment simultaneously, either with the same employer or with multiple employers.

If you have two (or more) jobs, it is likely that all of your second (and third, etc.) income will be taxed at the basic or higher rate of tax, depending on how much you earn. This is because all of your allowances will usually have been used against the income from your main job. This could occur for supply teachers where you are registered with two or more agencies, or with two or more different local authorities.

How to change a tax code?

In some circumstances, a teacher may want to consider asking HMRC to split their tax code between two or more employers. This can be arranged by means of a phone call to the HMRC helpline for employees on 0300 200 3300. (You will need to have your National Insurance number and your employers' PAYE references handy.)

A teacher may receive an incorrect tax code when you change a job. For supply teachers, this could be when they leave a school, an academy group, an agency or an umbrella company, to start with a different 'employer'. The previous employer will provide you with a P45 tax form, usually at or shortly after the end of your contract, which you will pass on to your new employer. The P45 will contain the tax code they should use when they pay you. However, you may have given the P45 to another employer and this is your second job, in which case the second employer would have to use an 'emergency tax code' (see Appendix I).

In practice it can be difficult for HMRC to ensure that (a) you are not given the benefit of your personal allowances more than once; or (b) that you are not given the benefit of the basic rate tax band more than once. If either of these events occurs, you are likely to have underpaid your tax at the end of the tax year.

You can use a 'payslip calculator' from an internet search to estimate how much Income Tax and National Insurance you should be paying. Examples of these facilities are included in Section 7, although the NASUWT does not endorse any.

Further details from HMRC's website (www.hmrc.gov.uk/incometax/codes-basics.htm) are included at Appendix 1.

Examples are shown below of how much tax is payable using the 2014-15 basic Personal Allowance at different income levels:

Supply Teacher Tax Examples

Tax code		1000L	1000L	1000L	1000L	1000L	1000L
A	Gross income	£12,000	£15,000	£20,000	£30,000	£40,000	£50,000
B	'Tax free'	£10,000	£10,000	£10,000	£10,000	£10,000	£10,000
C=A-B	Taxable	£2,000	£5,000	£10,000	£20,000	£30,000	£40,000
Tax due		£400	£1,000	£2,000	£4,000	£6,000	£9,627
Calculations:							
Taxable at 20%		£2,000	£5,000	£10,000	£20,000	£30,000	£31,865
Taxable at 40%		£0	£0	£0	£0	£0	£8,135
Total taxable		£2,000	£5,000	£10,000	£20,000	£30,000	£40,000
Tax at 20%		£400	£1,000	£2,000	£4,000	£6,000	£6,373
Tax at 40%		£0	£0	£0	£0	£0	£3,254
Total tax		£400	£1,000	£2,000	£4,000	£6,000	£9,627
Tax rate		From To					
20%		£0	£31,865				
40%		£31,866	£150,000				
45%		£150,001					

Threshold for 40% tax £41,865

In the examples, no tax is payable on the first £10,000 earned, so if the annual income were £12,000, only £2,000 would be taxed at the basic 20% rate, with total tax (excluding National Insurance) of £400. At an income level of £15,000 all of the additional £3,000 earnings would be subject to 20% tax rate, so the income tax payable is £600 higher at £1,000.

This tax progression continues in this example until the £40,000 level, with each additional £10,000 of income resulting in £2,000 (20%) of tax.

The higher rate tax of 40% begins when income exceeds the sum of the tax-free allowance of £10,000 and the 20% bandwidth of £31,865, which is £41,865. Above this level, the marginal tax rate of all extra income is 40%.

When taxable income reaches £100,000, the Personal Allowance is gradually withdrawn – for every £2 of income over £100,000 the allowance is reduced by £1. So when income reaches £120,000, the allowance is forfeited completely. However, these adjustments do not occur automatically within the PAYE system and will normally take effect during the Self-Assessment Process.

Income in excess of £150,000 is taxed at the additional rate of 45%.

iii. National Insurance Contributions

NICs are another statutory element of taxation on your earned income. An employee's National Insurance contribution is payable on earnings where the individual is aged 16 or over and under State Pension Age.

Currently State Pension Age for men is 65. For women born before 6 April 1950 State Pension age is 60. State Pension age for women who were born on or after 6 April 1950 will gradually increase from 60 to 65 between 2010 and 2018. For more information go to www.gov.uk/calculate-state-pension.

The State Retirement Pension and a number of state benefits are dependent on the NICs that you have paid. It is important, therefore, that you pay the right type and right amount of NICs in your employments.

Employees and employers pay Class 1 NICs on their employment income. Contributions are banded according to your level of earnings in the earnings period (weekly, monthly, annual etc. as appropriate). Each pay period is considered in isolation.

Briefly, the bands work in this way:

- Earnings up to the Lower Earnings Limit (LEL) are exempt and do not count towards any benefits.
- Earnings between the LEL and the Primary Threshold (PT) (employees) or Secondary Threshold (ST) (employers) are zero-rated but do count towards benefits.
- For employees, earnings between the PT and the Upper Earnings Limit (UEL) are liable to normal contributions, while earnings in excess of the UEL are liable at just 2%.
- For employers, all earnings over the ST are liable to contributions.

Unlike tax, for NIC purposes earnings from different employments are not normally aggregated, though this may sometimes happen if you hold two or more employments with the same employer or with closely associated employers. As a result, supply teachers will benefit from the exempt and zero-rated bands at each employment and will often pay less NICs than they would otherwise have paid if all their income were from a single source.

The Government has indicated that it is concerned about agencies and umbrella companies that employ temporary workers, including supply teachers, who are located outside the UK and outside the EU as they can avoid paying employer NICs. New anti-avoidance legislation effective from 6 April 2014 is intended to stop this happening (see Appendix III).

If an employment agency or umbrella company tries to make you liable for the EMPLOYER'S National Insurance contribution, you are strongly recommended to contact the NASUWT.

5. Tax reliefs and exemptions

i. Tax relief and exemptions for the employed teacher

Subscription to a professional body

All employed supply teachers can claim tax relief on a subscription to a professional body, which includes a designated proportion of the membership fee of a teachers' union. In the case of the NASUWT, members are entitled to claim tax relief on two thirds of their annual Union subscription.

To obtain this tax relief, you will need to contact HMRC and inform them that you are claiming for a subscription to a professional body. You will need to advise HMRC that the NASUWT is included on what HMRC calls 'List 3'.³

³ Currently the NASUWT is unhelpfully listed by HMRC under S for Schoolmasters, rather than the more logical N for National, so you should direct them to 'List 3 – S', which is at listed at the bottom of page www.hmrc.gov.uk/list3/index.htm under S. The Union has asked HMRC to amend this classification, so if you cannot find the Union under 'Schoolmasters', HMRC will have moved the Union to 'National'.

The benefit of this tax relief depends on your marginal tax rate. To a basic rate taxpayer this is worth £22.32 ($£167.40 \times \frac{2}{3} \times 20\%$); if you are a higher rate taxpayer it is worth twice as much, i.e. £44.64 ($£167.40 \times \frac{2}{3} \times 40\%$).

NASUWT members have reported that HMRC apportion the annual amount as it is payable from 1 January each year: they will put the first three months (January to March) in one tax year and the remaining nine months (April to December) in the following tax year. You will have to repeat this process each year but will end up with a full year's tax relief.

Specialist tools or clothes

Specialist supply teachers may be entitled to claim for additional items regarded as necessary to undertake their duties. For example, a PE teacher may be able to claim tax relief for training shoes or track suits, if you can demonstrate that the items are used wholly and exclusively for work purposes.

Splitting tax codes

As stated earlier, you may find it beneficial to ask HMRC to split your tax code and allowances over more than one employer.

You may also be able to reclaim overpaid tax or reduce the monthly tax bill by explaining to HMRC that their whole-year income estimates are overstated.

Agencies, umbrella companies and travel expenses

Under normal tax rules, employees can only claim tax relief for the cost of travelling to and from a temporary workplace, subsistence incurred in connection with those journeys, and overnight accommodation at or near the temporary workplace if it is not practicable for the employee to return home.

A workplace is temporary if the employee is assigned to that location for a period not expected to exceed 24 months. The workplace may still be temporary if the assignment is for longer than 24 months but the employee must spend less than 40% of their working time at that location and they must attend that location either (a) 'for a temporary purpose', e.g. to attend a meeting or to carry out some other self-contained task; or (b) 'for a task of limited duration', e.g. a project with a foreseeable completion date.

Agency workers are generally regarded by HMRC as having a permanent workplace at the premises of the client they are assigned to. Despite the fact they may well spend less than 24 months at the location, each assignment is generally regarded as a separate 'employment' and not as part of a single ongoing employment with the agency. As a result, no tax relief is available for the cost of the employee's travel to and from the client's premises, or for any associated costs such as subsistence or overnight accommodation.

The exception to this is where the agency can demonstrate that the worker is engaged under a single overarching contract.

Many umbrella companies maintain that each worker is their own employee engaged under an overarching contract. They, therefore, consider that each assignment is to a temporary workplace, allowing expenses to be paid tax-free. Often the expenses are not paid on top of wages but instead of wages under salary sacrifice arrangements. As the Reed Employment vs HMRC case showed, these schemes can fall foul of an HMRC challenge unless the worker has an ongoing relationship with the umbrella company between client assignments and continues to receive remuneration.

The NASUWT advises you to get independent tax advice before placing any reliance on claims to tax-free expenses in this situation.

Keeping records

If you claim for any expenses, make sure you keep a clear audit trail and records of all journeys and purchases, including retaining all receipts, to support your case. Retain all payslips and expense receipts indefinitely, as these are your responsibility, not your employer's.

HMRC can go back four years or up to six years if they suspect a teacher has wrongly claimed tax reliefs, and up to 20 years if they think the teacher has knowingly made false or fraudulent claims.

What will happen if I get it wrong?

The consequences of getting this wrong can be to receive a large retrospective tax bill from HMRC, for which they would demand immediate payment. For example, if a teacher has claimed for train tickets for their ordinary commuting journey at £500 a month, or £6,000 a year, and has claimed tax relief at 40% as a higher rate taxpayer, you will have claimed £2,400 tax relief that you may have to later repay (or £1,200 as a basic rate taxpayer). You would also face demands for interest and quite possibly a penalty as well.

Therefore, it is important to take specific advice to ensure you fully understand your tax position and any potential liabilities.

ii. Tax relief and exemptions for the self-employed teacher

As a self-employed supply teacher (see Appendix II on self-employment), you may incur certain expenses which are associated with the provision of your services such as travel expenses, stationery costs, learning aids and materials, accountancy and professional fees and business banking charges. Allowable expenses may be deducted from your gross income when determining your taxable profit for the year.

The basis upon which expenses may be claimed is different for self-employed individuals to that of employed individuals. In essence, self-employed individuals can claim expenses which are 'wholly and exclusively' for the purposes of 'the trade' (i.e. for the provision of your services). Allowable expenses are those expenses which you need to pay out in the course of earning business profits, resulting from the provision of your services.

You are not allowed to claim non-business expenses or any expenses which have a private element (i.e. where part of the expense is for your private benefit rather than solely for the provision of your services) unless the private element is 'incidental'. For example, a self-employed supply teacher may be required to travel to and stay in a hotel some distance away from their home in order to deliver a seminar at an off-site teaching course in the hotel. Whilst the hotel may involve some private benefit, the private benefit would be deemed to be 'incidental' since there is no private purpose (i.e. the teacher is only staying at the hotel to deliver the seminar).

Allowable expenses

These include the following:

- accountancy fees;
- subscriptions to professional bodies (e.g. your NASUWT subscriptions);

- business banking charges and costs;
- travel expenses (incurred in order that you can deliver your services);
- motoring expenses. You can deduct a fixed rate for each mile travelled on business, using fixed mileage rates or the actual expenses, worked out using detailed records of business and private mileage to apportion your recorded expenditure. Further information on the fixed rates you can claim are included at www.gov.uk/simpler-income-tax-simplified-expenses/vehicles;
- stationery, equipment and technical instruments;
- books (provided that you can show they were purchased wholly and exclusively for the delivery of your services).

Further details on expenses for self-employed individuals can be found at www.hmrc.gov.uk/incometax/relief-self-emp.htm.

Self-employed individuals may also be able to claim capital allowances for capital items which are purchased for use in the business (e.g. business premises). Further details on capital allowances can be found at www.hmrc.gov.uk/capital-allowances/basics.htm.

Keeping records

As with employment expenses, it is important that you keep a clear audit trail and records of all journeys and purchases, including retaining all receipts, to support your case.

HMRC can go back up to four years or six years if they suspect you have wrongly claimed tax reliefs and up to 20 years if they think you have knowingly made false or fraudulent claims.

6. The self-assessment regime for tax

i. Who needs to file a UK Tax Return?

You will need to file a UK Tax Return if:

- you are self-employed;
- you are a company director (including director of a Personal Service Company);
- HMRC has sent you a formal notice requesting you to complete a return;
- HMRC has sent you a return to complete;
- you have income to report that has not already been subject to tax in full at source (e.g. via PAYE). For example, you may need to file a tax return where the level of tax withheld from you during the year has been insufficient. Although not required, you may also want to file a tax return where you believe that you are owed tax (e.g. because you have been subject to an over-deduction of PAYE).

More information on filing requirements can be found here: www.hmrc.gov.uk/sa/need-tax-return.htm#1.

Self-assessment tax forms can be downloaded from HMRC's website here: <http://search2.hmrc.gov.uk/kb5/hmrc/forms/selfassessmentforms.page>.

ii. Registering for self-assessment

The first step for self-assessment is to register with HMRC by submitting a form SA1 to the Revenue. They will subsequently set up a self-assessment record for you and issue you

with a ten-digit Unique Tax Reference (UTR) number. This UTR serves as a reference for your self-assessment account and is required to file your tax return online. HMRC can take a minimum of six weeks to process this form, set up an account and issue you with a UTR. Hence, we would advise submitting this form as soon as possible. The form can be found here <http://search2.hmrc.gov.uk/kb5/hmrc/forms/view.page?record=Fi3cFTmOtho>.

You may wish to submit your return online, further details of which can be found here: www.hmrc.gov.uk/sa/file-online.htm.

iii. UK tax year, filing deadlines

The UK tax year runs from 6 April to 5 April the following calendar year. If you are submitting a paper tax return, the filing deadline is 31 October after the tax year in question. If you are submitting an online return, the deadline is 31 January after the tax year. So, for illustrative purposes, the 2014-15 tax year would run from 6 April 2014 to 5 April 2015, with a filing deadline of 31 January 2016.

iv. Payment Deadlines

If you owe any tax, this must be paid to HMRC by 31 January following the end of the tax year. For example, if you owe any tax for the 2014-15 year, this must be paid by 31 January 2016.

As well as paying any tax owed for the tax year that has just elapsed, you may also need to pay the first of two 'payments on account', which are part payments towards your next tax bill. These payments on account are not always applicable and depend on the amount of tax due and type of income received.

Any further payments on account would need to be made by 31 July following the end of the tax year. For example, on 31 July 2015 you would make your second payment on account for the 2014-15 tax year.

You can find further information on paying your tax here: www.hmrc.gov.uk/sa/deadlines-penalties.htm#1.

v. Late payment penalties

HMRC also imposes penalties if any tax owed is not paid by the relevant deadlines. More information can be found here: www.hmrc.gov.uk/sa/deadlines-penalties.htm#6.

vi. Late filing penalties

HMRC impose penalties if returns are not submitted by the relevant deadlines. Further details can be found here: www.hmrc.gov.uk/sa/deadlines-penalties.htm.

Note too that if you miss the 31 October deadline for filing a paper return, you can then only file an online return. If you attempt to file a paper return after that, you will be penalised and the return may be rejected.

7. Additional information and resources

i. TaxAid

A good source of further information is the website of the UK charity, TaxAid (<http://taxaid.org.uk/>). This charity is able to assist anyone on low income, defined as less than £20,000 a year.

Details of how they may be able to help you is given in Appendix IV.

ii. Examples of payslip calculators:

HMRC: <http://payecalculator.hmrc.gov.uk/PAYE0.aspx>

Other:

www.fpb.org/calculators/payslip.asp

www.listentotaxman.com/

<http://lowtax.tmp.informanagement.co.uk/component/infozone/?page=65>

www.sjdaccountancy.com/common/calculators/payroll.html

www.sobellrhodes.co.uk/free-resources/calculators/payslip/

www.taxcentral.co.uk/taxcentral/tax-calculators/payslip-checker/default.aspx

www.thesalarycalculator.co.uk/salary.php

8. Appendix I: Tax codes

i. Common tax code letters and what they mean:

Letter	Reason for use
L	For people born after 5 April 1948 and eligible for the basic Personal Allowance - 944L for the 2013-14 tax year. It is also used for 'emergency' tax codes (read more in the section 'If you're on an emergency tax code')
P	For people born between 6 April 1938 and 5 April 1948 and eligible for the full Personal Allowance
Y	For people born before 6 April 1938 and eligible for the full Personal Allowance
T	If there are any other items we need to review in your tax code, for example the income-related reduction to the Personal Allowance
K	When your total allowances are less than your total 'deductions' – read more in the section 'How the 'K code' works'

ii. Other tax codes and what they mean:

Code	Reason for use
BR	Is used when all your income is taxed at the basic rate – currently 20% (most commonly used for a second job or pension)
OT	Is used when your allowances have been used up or reduced to nil and your income is taxed at the relevant tax rates. May also be used if you've started a new job and don't have a form P45 or haven't completed a Starter Checklist or provided your employer with relevant information before your first pay day

D0	Is used when all your income is taxed at the higher rate of tax – currently 40% (most commonly used for a second job or pension)
D1	Is used when all your income is taxed at the additional rate of tax – currently 45% (most commonly used for a second job or pension)
NT	Is used when no tax is to be taken from your income or pension

iii. What is an emergency tax code?

An emergency tax code is a code that your employer or pension provider uses on a special basis until HMRC has enough information about your income to be able to issue you and your employer with your correct code. An emergency code normally makes sure that you get the basic Personal Allowance (and therefore some tax-free pay) but doesn't take into account any other allowances or reliefs you may be entitled to. Your employer or pension provider will normally keep using it until HMRC tells them what your correct tax code should be.

The emergency tax code is set each year and is a number followed by the letter L. The number is the basic Personal Allowance (£9,440 for the tax year 2013-14, £10,000 for 2014-15) divided by 10. The emergency code for 2014-15 is therefore 1000L.

If you have indicated to your employer on the New Starter Form that this is your first employment since 6 April and you have not claimed any taxable social security benefits in the meantime, your employer will operate the emergency code on a cumulative basis. That means you will get the benefit of any unused slices of your Personal Allowance that have accrued since the start of the tax year.

If this is not your first employment, your employer will operate the emergency code on a 'Month 1 basis' (if you are paid monthly) or a 'Week 1 basis' (if you are paid weekly). That means that each pay day you will get a slice of your Personal Allowance for the week or month, but you will not get the benefit of any unused allowances from earlier in the tax year. You will know if this is the case because of the way your tax code appears on your payslip, e.g. 944L W1, 944L M1 or sometimes 944LX.

The emergency code (without the M1 or W1 marking) also happens to be the tax code you will get if you are entitled to just the basic Personal Allowance with no additions or restrictions.

9. Appendix II: Employment versus self-employment

i. Employment versus self-employment

While many supply teachers are treated as employees working for one establishment or via an agency, some supply teachers do work on a self-employed basis. This section examines the different tax treatment of self-employed teachers and provides guidance on who might be classed by HMRC as self-employed.

Note that separate rules apply from 6 April 2014 where you are claiming to be self-employed for tax purposes and work via an agency. See Appendix III for further details.

Self-employment

Supply teachers providing services may, in certain circumstances, be classed as self-employed for the purposes of taxation. However, HMRC will only accept someone as self-employed if there is a genuine business being carried on, which cannot be defined as an

employment arrangement. The law provides little statutory guidance as to what constitutes a trade; however, a number of 'badges of trade' (i.e. indicators of self-employment) have been developed over time, which can be used to build an overall picture as to whether a trade is taking place. It is not a matter of choice as to whether a teacher is self-employed but is based on the facts of the case.

The main advantage to being self-employed is that such teachers may claim tax relief on expenses incurred 'wholly and exclusively for the purpose of the trade,' as opposed to having to be incurred 'wholly, exclusively and necessarily in the performance of the duties of employment' to qualify for tax relief. Consequently, there is generally wider scope for self-employed teachers to claim expenses.

National Insurance is also lower for the self-employed. In 2013-14, self-employed teachers pay Class 4 National Insurance at 9% on earnings in the year between £7,755 and £41,450 and 2% on all earnings above £41,450. They also pay Class 2 National Insurance at a flat rate of £2.70 a week. Employees pay Class 1 National Insurance on their earnings at rates of 12% and 2%, and their employers must also make further payments on all earnings over £7,696 at a rate of 13.8%.

The way self-employed teachers are taxed is also different to employees. The PAYE system does not apply to the self-employed. Instead, teachers invoice the organisations for which they are providing services for work undertaken and receive their payment without deductions for tax or National Insurance. All self-employed teachers should then prepare accounts for the year, showing their income and expenses, and include this information in a Tax Return. Payments of tax are due by 31 January and 31 July of each year.

Employment

Over the years HMRC has placed emphasis on reclassifying individuals claiming to be self-employed, being keen to ensure that only those genuinely in business on their own account receive the commensurate tax savings. This is because self-employed workers – whether sole traders, in partnerships, or directors and shareholders of their own limited companies – generally pay less tax in exchange for the greater risk they take for not being in employment.

What questions should you ask yourself?

It should be noted that no single factor will normally be considered decisive and the authorities will consider all the relevant facts. The main criteria used in assessing whether a relationship is employment or self-employment for taxation purposes are as follows:

	Questions A	Tick	Questions B	Tick
1.	Do you have to do the work yourself (as opposed to sending someone else to do the work on your behalf)?		Can you employ and pay your own helpers or send a substitute to undertake the work that you would have done (i.e. a sub-contractor)?	
2.	Can the organisation you are working for tell you where/when/how to work and what to do?		Do you decide where, when and how to provide your teaching services, and what to do?	
3.	Can you be moved from one task to another depending on the engager's operational needs?		Are you contracted for a pre-defined and specific task only and will not be asked to do other things without a new agreement?	

	Questions A	Tick	Questions B	Tick
4	Do you work a set number of hours each week or month and / or does a pattern exist?		Are you free to choose the hours and patterns of work in order to get the job completed?	
5	Are you paid a regular amount or are you paid by the hour?		Do you simply claim a fixed fee when the assignment is completed (there are no patterns as to when this may occur) and the fee is one-off in nature?	
6	Can you claim for any overtime, allowances or expenses?		Are all costs associated with your work covered by the invoice presented by you?	
7	Are you responsible for managing anyone else who is an employee?		Do you have no managerial responsibility for any employee of the organisation you are working for?	
8	Does your engager supply all the equipment and materials you need for the work?		Do you supply all the equipment and materials needed for the work at your own expense?	
9	Do you seek payment for work undertaken by you personally?		Do you invoice the establishment for which you are working via a registered limited company or a VAT-registered business?	
10	Do you work mainly for one engager and on that engager's premises?		Do you have a number of other clients (i.e. other organisation for which you provide teaching services)?	
11	Is your engager obliged to offer you work to do and are you obliged to accept it?		Are you free to turn down the work that your engager offers you?	
12	Does your engager provide you with any employee benefits such as pension, paid holidays, loans, healthcare, vehicles, etc.?		Do you make your own provision and manage your own benefits and conditions of service?	

After completing the tick chart, you should be able to see a pattern towards questions in column (A) or in column (B).

If the pattern is towards column (A) then you are likely to be an employee.

If the pattern is towards column (B) then you are unlikely to be an employee.

If no pattern emerges, or if there is only a minor bias towards one of the columns, then you should consider seeking professional advice to establish your employment status for tax purposes.

Notes

- The description given to the relationship in the contract or other documentation will carry little weight in determining the relationship which exists.
- An individual wanting to be considered self-employed should where possible be seen to invest in equipment and incur an element of financial risk by his/her operations; they should also have the possibility to increase profitability by responsible management and investment.
- If a worker spends all his/her working time working for the one engager this would suggest that he/she is more likely to be an 'employed worker' rather than self-employed.
- The contract should not be unduly restrictive in regard to the other work that can be carried out. If a contract contains restrictions, this implies that a greater degree of control is being exercised by the engager, which is an indicator of employment. However, an undertaking not to divulge secrets or to keep matters confidential is acceptable.

Does HMRC offer to help you decide if you are employed or self-employed?

Yes, and you could consider using the guidance available. However, it is often helpful to obtain professional advice as HMRC only looks after the taxation position and does not consider any employment law implications.

HMRC's website has an Employment Status Indicator (ESI) tool to help determine an individual's correct status (see below). Outcomes are based purely on the information which is input into the system and can only be a guide to the correct status. However, you can rely on the ESI outcome as evidence of your status for tax/NICs/VAT purposes if both of the following apply:

- the answers to the ESI questions accurately reflect the terms and conditions under which you provide your services to a given engager; and
- the ESI has been completed by an engager or their authorised representative (if you complete the ESI tool yourself, the result is only indicative).

You should print or save copies of the 'Enquiry Details' screen and the 'ESI Result' screen, bearing the ESI reference mentioned above.

HMRC have issued factsheets – ES/FS1 and ES/FS2 – which provide further advice on this issue. They can be downloaded from HMRC's website at

www.hmrc.gov.uk/leaflets/es-fs1.pdf (for individuals)

and

www.hmrc.gov.uk/leaflets/es-fs2.pdf (for engagers).

The Employment Status Indicator is located at:

www.hmrc.gov.uk/calcs/esi.htm.

10. Appendix III: Additional PAYE legislation

i. Worker operating through a Personal Service Company and IR35

This type of worker can also be referred to as an 'incorporated worker'. Typically the worker sets up or buys a limited company of which the worker, or worker and partner or spouse, is or are the sole director(s). This sort of company is known as a Personal Service Company or PSC. The PSC then contracts with clients to provide the worker's services and the client pays the PSC on invoice, without deduction of tax or NICs.

The PSC may be caught for tax and NICs by anti-avoidance legislation known as IR35. The IR35 rules apply where the worker works under the control of the end client and would be an employee of the end client but for the PSC. In that case, the fees received by the PSC from the end client are deemed to be the salary of the worker, subject to a few small adjustments for expenses. The PSC then has to operate PAYE on the deemed salary and account for tax, employee NICs and employer NICs. This will be the case whether or not the worker has actually drawn the salary, taken it in some other form such as a dividend, or left the money in the company.

In May 2012 HMRC published extended guidance of the IR35 rules. This included a series of 'business entity tests' intended to help potential IR35 workers decide if they are running a high, medium or low risk of falling within the IR35 rules. The guidance can be viewed or downloaded from HMRC's website at: www.hmrc.gov.uk/ir35/guidance.pdf.

In addition to PAYE responsibilities, PSCs may also have additional administrative burdens, such as registering for Corporation Tax and filing annual accounts and returns with Companies House.

ii. Worker operating through a Managed Service Company

A Managed Service Company (MSC) is a form of intermediary company through which a number of workers provide their services to end clients. The clients pay the MSC on invoice without deduction of tax or NICs. The MSC then pays the worker. Anti-avoidance tax legislation introduced in 2007 deems all payments received by a worker working through an MSC to be employment income. The MSC is therefore obliged to deduct tax and NICs from the payments, whatever form the payment takes. If the MSC fails to operate PAYE, the legislation gives HMRC powers to transfer the liabilities to various third parties, including the workers themselves.

iii. Agency worker

An agency worker provides services to an end client via an employment agency or employment business. The agency finds work assignments for the worker and then supplies the worker's services to the end client. The end client pays the agency on invoice and the agency then pays the worker. The tax and NIC legislation place the onus on the agency to deduct PAYE and NICs from the payment it makes to the worker.

Before 6 April 2014, where the worker's services were provided through a foreign employer or agency, the legislation deemed the UK end client to be the 'host employer' for tax and NIC purposes. It was the 'host employer's' responsibility to account for the PAYE tax and NICs. Since 6 April 2014, responsibility for PAYE and NICs falls first of all on a UK agency where there is a UK agency involved in the chain. Where there is no UK agency, the responsibility once again falls on the end client.

11. Appendix IV: TaxAid

- **What is TaxAid?**

TaxAid is a charity which provides free confidential professional tax advice to people who cannot afford a paid adviser.

- **Who can we help?**

Anyone on low income whether employed, self-employed or on benefits who needs advice on tax. As a guideline, low income is up to about £380 per week before tax – equivalent to £20,000 per year for a single person.

- **How can we help you?**

Note that TaxAid is not an alternative to circumstances where you need to give information to, or ask for information from, HMRC. HMRC holds the tax records that enable it to deal with queries relating to:

- PAYE codes and claims for tax relief on expenses of employment;
- under or over payments of PAYE and entitlement to tax refunds;
- filing of self-assessment tax returns;
- understanding statements of account, penalty notices or other correspondence;
- understanding how tax debts are made up and have been calculated;
- how different types of income are taxed;
- how to deal with tax when you become self-employed;
- entitlements to tax credits or child benefit.

TaxAid can help you if you are not able to resolve problems with HMRC. Situations where HMRC cannot help may include:

- if you need help with calculations (for example in order to file a tax return) or technical tax advice;
- if you need independent advice (for example, if you are facing legal proceedings for non-payment), if you are subject to an HMRC enquiry, if you have been charged a penalty, or if you are in dispute with HMRC;
- if the issue is complex or long-running (e.g. in circumstances where the issues cover several years), you have incomplete records, you can't pay the demand or you have undisclosed income;
- if you do not understand HMRC's explanations, correspondence or demands.

Note that TaxAid cannot help with tax credits or the tax affairs of limited companies. State benefits, universal credits and council tax are administered by the Department of Work and Pensions or local authorities and TaxAid does not advise on these.

- **What happens then?**

You may find it helpful to look at the information on our website www.taxaid.org.uk before you call us. Many problems can be sorted out on the phone – make sure you have your documents with you when you phone. If your problem is more complicated we have other ways to help you, e.g. by correspondence or by making an appointment to see one of our advisers in London or possibly elsewhere. Public Helpline 0345 120 3770 (weekdays, 10am – midday).

All our advisers are qualified tax professionals, who provide their expertise free of charge.

- **What if we can't help you?**

TaxAid can help only those with tax problems and only if you are on a low income. If your income is above our guidelines we suggest that you look for a qualified paid professional adviser from the Chartered Institute of Taxation, the Institute of Chartered Accountants in England & Wales, or the Institute of Chartered Accountants of Scotland.

NASUWT

The Teachers' Union

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The largest teachers' union in the UK