



The essentials of setting up, building and running your practice.

Episode 2:

How Can You Be Sure You're Self-Employed?

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Hi there, I am Matthew Holmes and I am your host on practicedna Podcast. Last episode we looked at the pros and cons of being self employed versus employed. If you have decided that self employed is the way for you to go we are going to look at how you need to make sure that you set yourself up so that should you have a situation where the tax man comes knocking you are going to be able to prove that you are self employed versus being an employee.

Now as always, this isn't legal or accounting advice, you need to seek your own advice for your particular situation and I am not a lawyer so just bare that in mind. What we are going to run through though is a simple checklist that can help you determine whether or not you can justify your self employed status because to be self employed you have to full fill certain criteria, you can't unfortunately just say, look I want to be self employed and just go ahead and do it. The tax office is going to apply this criteria and work out whether or not you should employed or not.

The first thing you need to look at is do you decide whether or not to carry out the job and what skills are you going to need to bring to be able to carry out that job. When you are looking at healthcare practitioners, that is probably going to be fairly obvious because we all should have the skills that we require to actually perform the job otherwise you wouldn't be the healthcare practitioner that you are and part of your training teaches you how to manage the conditions appropriately that you are presented with.

From a sort of more traditional point of view your employees do the job under the direction and regulation of their employer who decides what skills are necessary. If you are being contracted as a self employed person, it is up to you to decide how to do the work and what skills are necessary to do that work. So if you are in a situation where the principal in a practice is stipulating how you go about treating your particular problem or so on or how you are going to manage things and run your aspect of the business you may have a little bit of a situation arising where it is going to compromise your self employed status.

The next thing you want to look at is, who carries the risk for the job. So if it turns out that your patient doesn't pay, who ends up shouldering the burden. A self employed person will take that risk, whereas if your employer or the person who is contracting you takes that risk and you get paid regardless, then that is going to suggest that you are an employee and that is obviously going to compromise your situation from a self employed status. So if you are the self employed person you really need to be the one that is at very least not getting paid until the patient pays their bills and quite possibly even you need to be the one that is going to be responsible for chasing up patients in they don't pay.

Another thing that you will need to look at from that point of view is, can you make a profit or a loss on the situation that you are operating in? Employees don't bare that risk, they get paid regardless. So that I suppose that links him to with what we sort of talking about, even if the patient doesn't pay you will obviously get to end up taking a loss and that is something that your employer or the person who is contracting you shouldn't be compensating you for because that will make you more likely to be an employee.

The next thing is that, self employed people usually get to set their own hours. So you need to look at who actually sets the hours that you are operating in. Does the person who is offering the contract or the principal in the practice make available certain times for you within the practice and then you get to choose the exact hours that you work? I would have thought that is going to suggest that you are more a self employed person whereas an employee their hours are set by the employers and tend to be much more regular. Also, as part of this can you choose to accept or decline the work? That would suggest that if you can do that then that kind of, I suppose, makes your self employed status more applaudable so you have got to have to defend that position much more readily.

Point number four that we look at is, do you work in more than one location? If you work for more than one practice, that is different practice owners, you are far more likely to be self employed and if you perform work for just one practice owner it is much harder to justify that you are actually self employed as opposed to an employee. So even if you can only do one or two shifts at another practice, it does make much easier to justify your self employed status if you are working out of multiple clinics. So that is not multiple clinics that one practitioner or one person or company owns, this is if you are working for several different businesses, it becomes much easy to justify that self employed status.

Point number five is, do you invoice for your services? Self employed people invoice the practice owner for the services that they provide rather than being paid a wage. So if you are getting paid a wage then you are employed, whereas if you are actually performing the service you then invoice the practice owner for the services that you have provided then that is the type of thing that a self employed person would do.

Similarly, point six, can you set your own fees? If you are setting your own fees then that makes it again, this is a sort of tick in your self employed status. If your fees are determined by the practice owner then that makes it more likely that you are more likely an employee. So that is one thing you are need to be able to do is set your own fees.

Point number seven is, can you employ subcontractors? Self employed people should be in a position to employ subcontractors to perform the work for them. Now, this can sometimes produce a difficult situation in a practice in that obviously quite often for practitioners it is much more personality based and patients are uncomfortable often in terms of seeing other practitioners and so employing other people can become much more of an issue. But maybe one way to look at this is if you are away on holiday do you have the right to employee or contract a locum to come in to cover your aspect of the practice while you are away. If you do

have that then it is much more likely that is going to support your case that you are self employed as opposed to just an employee whereas the practice you are not allowed to employ anybody else to come in then that is something else which is going to compromise your self employed status.

Number eight, you also need to be looking at who is responsible for paying things like insurance, professional memberships, training, CPD cost etc. If you are the one paying those as a self employed person then that is going to support your status whereas if the principal of the practice is paying that then that is more consistent with you being an employee.

The last point that we tend to apply is you need to look at who actually supplies the tools for the job. Now, typically a self employed person is the one who actually supplies the tools that they are going to work with. Now, in a healthcare practice that may be a bit different in that you have certain equipment, maybe treatment benches and so on that is provided by the person who is providing the facilities. However, the self employed person may well provide things like their diagnostic equipment and other sort of small stuff that they are actually going to be using.

That kind of runs through the main sort of criteria that you would use to work out whether or not you are actually self employed and self employed and certainly perhaps what the tax office and places like that are use. But you really need to remember that it is not a clear cut thing, it is not that you go through and you tick off all these and you say yes I definitely fulfil all this criteria. So it is not just a matter of ticking the boxes, it is more about whether you are more weighted in one direction or another and so it is quite a subjective thing. So even though you may actually fulfil most of this criteria here you may still be defined by the tax offices being an employee. But generally the situation is that if you have more of this criteria going in your favour it is more likely that you are actually going to be able to say that you are actually self employed as opposed to an employee.

So hopefully you found that useful and please do give us some comments below this episode. If you are looking to this via iTunes then pop over to the website which is practicedna.com and leave us a comment below or if you think you can give us a good review on iTunes, that would be wonderful. That always helps other people find us as well. So head over to practicedna.com leave us a comment, give us some feedback on other things that you might want to talk about in the future as well.

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