Companies and directors – gainful self-employment

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Companies and directors

Claimants trading through a company are treated in the same way as someone who has chosen not to organise their self-employment in this way. Therefore, it does not matter if a claimant chooses to:

- register their business as a company
- make themselves a director
- pay themselves as an employee of the company, through shares and dividends, or by other means

Where the claimant has structured their business as detailed above or they have declared they are a company director, they must attend a Gateway Interview. This is used to determine whether they:

- are in a similar position to a sole owner or partner in a company which is carrying on a trade
- have few shareholders, significant influence over the company and a significant say on the day to day running of the business
- are gainfully self-employed or not

If a company director meets the above tests and is deemed gainfully self-employed, the Minimum Income Floor or Start-up Period must be applied in the normal way.

As for other gainfully self-employed claimants:

- business assets that are being used for trading, and the value of the claimant's shares in the company, are ignored as capital
- business profit (net profit after allowable deductions) is treated as self-employed earnings
- pay as an employee or director of the company is separate, and may show on the Real Time Information (RTI) feed, but should also be taken into account as employed earnings for Universal Credit

Companies House records can be used to check if a claimant is a company director.

Exceptions

Care is needed with the treatment of property businesses. The above rules only apply to a company which carries on a ‘trade’, such as a hotel or bed and breakfast. In these cases, the company structure is ignored and the usual gainful self-employment tests apply.

A company which just owns a small number of buy–to-lets or holiday properties that produce rental income is not carrying on a trade (in tax legislation), and the above rules don’t apply.

This means that the assets of the company are treated as the claimant’s personal capital. If they are valued over £16,000 there is no entitlement to Universal Credit, if they are valued below £16,000 tariff income is applied in the usual way.

Special rules also apply to claimants with income paid to them:

- as a worker by an intermediary company
- from a managed service company

These workers are employees for Universal Credit and tax purposes.

A person who is a director of a company which has a large number of shareholders would not meet the test of being a sole owner or one of few partners/shareholders and is an employee.

A person who owns shares in a company alongside a large number of other shareholders is an investor and Universal Credit capital rules would apply. See Treatment of capital.

Reporting income and earnings

A company director may pay themselves a salary using the Pay as you earn (PAYE) system. All earnings processed through PAYE are reported automatically through the RTI feed.

Claimants must also declare any additional self-employed earnings generated by their business - on a cash-in and cash-out basis. This must be done at the end of each assessment period in exactly the same way as any other self-employed claimant. See Self-employed earnings.

Business deductions must be incurred reasonably, wholly and exclusively for the purpose of the business. See Self-employed earnings – permitted expenses.

Any money paid to the claimant as an employee or director of the company can be deducted from any net profits, so that it is not counted twice (as both PAYE and self-employed earnings).

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