Understanding your tax status in TV

Unscripted Freelancer Pack

A UTVU briefing • Sep 2022

New Prospect House
Leake St, London
SE1 7NN
Tel: 020 7346 0900

bectu.org.uk

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Understanding your tax status in TV - PAYE? Sch D? Loan Out?

Holiday Pay / Auto Enrolment Pension

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The first thing you need to know is that the TV and Film industry has its own set of rules governing your tax status. A very comprehensive guide to tax for freelancers is available to members here: [Tax for freelancers: A Guide for Bectu members (April 2022)](). Being "freelance" means that you don't have a permanent staff job and that you probably move about between companies for each job/series you work on. You will fall into one of three categories for tax purposes:

PAYE or Pay As You Earn

This means your employer pays you your agreed rate at regular intervals (usually monthly) and they will deduct National Insurance, Income Tax (and auto enrolment pension *see notes on this below ** if applicable). You will be required to submit a P45 from your previous employer or to complete the HMRC New Starter Checklist which you can find here: These documents ensure your employer deducts the correct amount of tax.

If you are unsure whether you have been paid or taxed correctly always refer to your PM or Line Manager in the first instance. In bigger companies there may be an HR or payroll department to help with any queries.

If you are contracted as PAYE you will be entitled to holiday pay ON TOP of your rate. This accumulates at 0.4 days per week. If you take holiday you are entitled to be paid for it (assuming you have accumulated enough days). Any holiday untaken at the end of the contract should be paid at the end of your contract with your final pay.

Schedule D / Sole Trader

Some roles can be self employed (previously known as and often still referred to as Schedule D). HMRC have a specific list of roles that can be self employed found here: http://www.hmrc.gov.uk/gds/esm/attachments/roles_normally_treated_as_self_employed_formerly_appendix_1.pdf NB: the role appearing on this list is not a guarantee you can be self employed there are other criteria on the list that must be met. If you are unsure check in the first instance with your Production Manager, HR department or an accountant who specialises in Film & TV.

If you are self-employed you must be registered with HMRC as a Sole Trader, and will invoice the company at regular intervals (usually monthly) for your agreed rate. No tax is deducted from your invoice (although auto enrolment pension might be) and you are responsible for submitting an annual self assessment tax return to HMRC who will calculate your tax payment. You will normally pay tax to HMRC twice yearly - 31st January and 31st July. As well as paying your tax for the previous year you will also have to make a payment on account for the upcoming year each time (these payments will be 50% of your previous year's tax bill).

Loan Out/Ltd Company (Outside IR35)

A loan-out agreement is an agreement where your services are provided (or loaned out) via a company (usually your own Ltd Company). This means that the production company contracts directly with the Ltd company rather than you as an individual. Therefore your Ltd company rather than the Production Company is responsible for dealing with the tax on any payments made under the agreement and holiday pay or pension will not be paid by the production company.

In TV these Ltd Companies are often personal service companies, i.e., a Ltd Company set up by a freelancer for providing their services. From April 2021 HMRC rules around IR35 mean that all medium and large companies became responsible for determining whether individuals can be contracted via a Loan Out agreement. This may mean the production company runs your details through an IR35 check to determine your status before agreeing to contract via a loan out agreement. If this is the case, you are likely to be asked to complete a Contractor Checklist to determine your status. If your role is determined to be inside IR35 the production company may insist you are contracted on a PAYE contract. If you are unsure about a determination or wish to dispute it please contact your Bectu representative, for UTVU this is Arun Devasia ADevasia@bectu.org.uk

Holiday Pay

If you are contracted as either PAYE or Schedule D you are entitled to the legal minimum paid holiday of 28 days per year including public holidays. As most contracts in TV are less than a year this will be calculated pro rata at approximately 0.4 days of holiday accumulated for every week worked. It means you will be paid for any holiday taken including public holidays up to the amount of days accumulated.

If you are unsure how many days of holiday you are entitled to, check with your Production Manager.

If you do not take all of your holiday entitlement during a contract you should be paid for any outstanding holiday at the end of your contract. Again, check with your Production Manager how much you are entitled to. It is also a good idea to keep your own record of additional days worked during your contract.

Auto Enrolment Pension

Some PAYE and Sch D freelancers will be entitled to auto enrolment in the production company's pension scheme. If you qualify this means a percentage of your income will be deducted and paid into a pension on your behalf along with a contribution from your employer - currently the minimum amounts are 3% employer contribution/5% employee contribution. Whether you qualify will depend on your rate and length of contract. Companies are entitled to defer your enrolment for 3 months and it seems to be standard practice in the TV industry to do so, however you can request to be opted in before this date, and we recommend you do this. If you wish to opt in, let either your Production Manager or the HR or payroll department at the company know. If you can afford the deduction from your income it's worth considering, even if you already have a private pension, as you will benefit from the employer contribution and you can move the money from the employer's pension provider to your own at the end of the contract.