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By:

Matt Boddington
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Employment Status, the Tax Rules

By David Kirk; £68.50

2012/13 edition; published by Claritax Books; paperback; 275 pages

As a long-time practitioner specialising in the field of employment status, I applaud any author who tackles head on the thorny issue of employment status.

Although the title of David Kirk's work refers only to the tax rules, and deals comprehensively with the distinction between employment and self-employment for tax purposes, there is also useful guidance in relation to the idiosyncratic National Insurance regulations.

In addition – and topically given the recent announcement to drop the proposed 'controlling persons' legislation in favour of clarification of the IR35 rules in relation to office holders – there is an entire chapter dedicated to the definition and nature of an officer, which readers will find useful.

Beyond these tax rules, which are intricate enough, the landscape is even more complex, with both employees and the self-employed divided into the legal categories of 'workers', 'contract workers' and, shortly, 'employee-owners'.

These forms of employment status are becoming ever more relevant for the engager and the adviser. For example, most practitioners drafting or advising on a self-employed contract may not appreciate that the genuinely self-employed operative may nevertheless qualify for an employer-contributed pension.

The book is scholarly and, although written in a largely academic style, manages to maintain a light tone, including speculation as to the side of the bed from which a particular judge has emerged. It strikes a balance between reference and narrative.

The author has researched his subject matter well and read extensively: employment status judgments are relatively rare in the tax jurisdiction – but broader case law is voluminous, and Kirk draws on it widely.

Legal terms and technicalities are nicely paraphrased and explained, making the volume approachable for the likely reader: the non-expert seeking guidance.

The author's viewpoint is neutral. In areas of contention, the arguments for and against are laid out equally. While this gives a well-balanced view of the law and a sound basis for evaluation of the strengths and weaknesses of a particular case, I suspect most practitioners will approach this book when in need of ammunition against an HMRC onslaught.

For that reason, further practical advice and argument might be a useful improvement for the reader – although there is reference by Kirk to dealing with the Revenue.

This is a minor criticism of a very good guide to employment status, and a volume that will find a useful place on the bookshelves of any practitioner who does not have the time to trawl through many thousands of case law judgments – which, let's face it, is almost everybody.

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