Twitter Thread by André Bothma



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Tax thread: Employees vs independent contractors.

1. Legally, the two terms are mutually exclusive and are direct opposites... https://t.co/jR0PBMp32M

Employee works for an employer.
Independent contractor is basically an entrepreneur.

2. This highlights two key points:

An employer has some measure of control over the employee.

An "IC" (short for independent contractor) is "his own boss".

It is the responsibility of the employer to determine that a person is either an employee or an IC.

3. Where does PAYE come into play? PAYE is deducted from remuneration. Remuneration applies to employee earnings, whereas for IC's (on certain conditions), their earnings can be excluded from remuneration and therefore no PAYE.

This difference is the scenario of yesterday.

4. There are two important tools: Statutory tests and common law tests. They can be used to determine employee/IC status.

The statutory test is to see if a person is independent from 1: the person paying them;
2 who the work is done for

AND

5. Whether the person is subject to two main things: Control, OR
Supervision

If the person is not independent from the employer (for both the work and the pay) AND the employer has control or

supervision of the person - PAYE will apply.

6. The statutory test simply determines whether or not PAYE must be deducted. It does not determine employee status though.

Please read IN 17 carefully and get written advice if anything is unclear.

7. Common law tests - this determines a person's definition as an employee status:

1. Controls manner of working
2. Payment regardless of output
3. Work is done personally
4. Obliged to "pitch up for work"
5. Exclusive relationship with one employer
6. Employer bears the risk

8. Common law tests continued, for employee status:

7. Instructions from employer
8. Reports required
9. Training provided
10. Set work hours per contract

There are 10 more, but you get the gist of what I'm saying.

If many of these apply to you, you're a common law employee.

9. To @iamkoshiek's point of yesterday - read your contract carefully to ensure that you are considered an employee or considered an IC. External contractors don't get the same benefits as employees do. Various labour law acts won't apply to you as well.

10. If you are an independent contractor, you're responsible for your own tax (even if PAYE might be deducted). You can also deduct business related expenses (where as employees can't).

11. Technical point on IRP5's. Employee earnings code is 3601; contractors earning code is 3616. This is very important.

If you're an IC and if you receive an IRP5, your IRP5 code must show 3616 for you to deduct expenses against the income.

12. Final tweet: Please read this carefully. What I tweeted here is my paraphrasing and shortenings. Get professional advice which you pay for if anything is unclear.

My main reference point for this was IN 17 and common law principles.