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Self-employment and Universal Credit

A detailed guide for advisers

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Self-employment and Universal Credit – A guide for advisers

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Section 1 - What counts as self-employment for UC?

For UC purposes, self-employed earnings are income that the claimant derives from carrying on a trade, profession or vocation and which isn't already classed as employed earnings.

According to the DWP ADM ([Chapter H4](#)), the concept of 'trade, profession or vocation' is taken from tax law. A person will either be a sole-trader or in a partnership with other(s).

The ADM includes a list of items that should be taken into account when determining if a person is engaged in a trade. These are based on the '[badges of trade](#)' developed by the courts for tax law. No one point is exhaustive. In some circumstances the existence of one point may be enough, in others it will be a combination of factors. We have reproduced the factors to be considered below. Paragraph H4013 contains useful examples of how the criteria will be applied:

- 1. whether there is a profit seeking motive (Regardless of whether or not a profit is actually made)*
- 2. the frequency and number of similar transactions. The more frequently that a transaction is carried out, the more likely that this is trading*
- 3. whether assets are modified in order to make them more attractive for a person to buy. If this is the case then this is likely to point towards a trade.*
- 4. The nature of the asset – was the asset bought simply to sell on for a profit?*
- 5. Whether there is a connection with an existing trade. If a person sells something unconnected with what they normally do by way of work then this may point towards a person not trading*
- 6. Financial arrangements. Where an asset is bought with a short-term loan which is to be funded by selling the asset again then this points towards trading*
- 7. The length of ownership. The longer than an asset is owned, the more unlikely that the sale of it constitutes trading.*
- 8. The reason for the acquisition and sale.*

The guidance also includes a list of factors to consider when assessing if a claimant's earnings are self-employed earnings for the purposes of UC (as opposed to employed earnings). Those factors are:

1. What form does remuneration take? Where tax is deducted at source, this may suggest that the employment is not self-employment
2. Is the claimant's work supervised? If they have control over agreeing to conduct work, fixing the price of work or how long the job may take this may point towards self-employment. If the claimant has own control over their costs, this may point towards self-employment
3. Does the claimant have the powers of appointment and dismissal and can they employ a substitute, for example to cover holidays or sickness? A power to appoint a substitute may point towards self-employment
4. How long in duration are the contracts of work? Short contracts may point towards self-employment

5. Does the claimant provide their own investment, for example, equipment. Provision of own equipment and tools may point towards self-employment
6. Where does the claimant work? If they work from home, or a workshop or office they own or rent, this may point towards self-employment
7. Is the person who engages the claimant for work obliged to provide work? If there is no obligation then this may point towards self-employment
8. Does the claimant have discretion over the hours they work? The greater the discretion then it is more likely that the work is self-employment.

Guidance on what constitutes a profession and vocation is less detailed. Examples of a profession include accountancy, the law and consultancy. Examples of a vocation given in the ADM include sport, music and acting.

The profession and vocation must be carried out in a capacity other than an employed earner.

The DWP guidance (H4017) confirms that they are not bound by a determination made by another Government department, which would include a decision by HMRC in relation to tax status. So even if a person is found to be self-employed for tax purposes, it does not follow that the earnings will be self-employed earnings for UC or that they will be found to be gainfully self-employed. Similarly, the decision on whether the earnings are derived from self-employment for UC purposes is not binding on any other government departments for other purposes.

Section 2 - Calculating income from self-employment

Calculating income from self-employment for UC is very different to tax credits where claimants simply take the figure used for their tax return for the appropriate tax year and enter it on to the tax credit form.

Income from self-employment will be taken into account as earned income for the purposes of calculating UC regardless of whether the person is found to be in [gainful self-employment](#) or not.

Section 2.1 - General rules

Earnings that are not [employed earnings](#) and are derived from a trade, profession or vocation are self-employed earnings.

Self-employed earnings must be calculated for the claimant's [monthly assessment period](#). Where the claimant is in their first assessment period and a determination is needed before the end of that period about whether they meet the financial conditions for UC (set out in Section 5 of the Welfare Reform Act 2012) – an estimate of the amount received or to be received may be used.

Where a claimant fails to report their income for an assessment period and the decision maker makes their own determination as to the amount of earned income in that assessment period, then the amount of earnings for that assessment period may be based on an estimate of the amount received or to be received.

Otherwise, the basic calculation is:

GROSS PROFITS minus INCOME TAX, NATIONAL INSURANCE AND PENSION CONTRIBUTIONS

Whilst this seems a straightforward calculation, there are some important points to bear in mind:

- Gross profits are defined as 'actual receipts' minus 'permitted expenses'
- According to DWP guidance (Chapter H4123), the income tax that can be deducted is the actual amount paid to HMRC in the UC assessment period in respect of the trade, profession or vocation. This is based on a strict reading of the Regulations means that only tax due on income from that particular trade, profession or vocation can be deducted. In practice this will be impossible to calculate for claimants who have more than one source of income that is dealt with through self-assessment without further guidance from DWP.
- Class 2 and 4 contributions paid in the UC assessment period can be deducted, again under the legislation these must be paid in respect of the 'trade, profession or vocation'.
- Pension contributions must be 'relievable'. This means they must be paid to a registered pension scheme by or on behalf of a member of the scheme. The contribution must be paid by a 'relevant UK individual' and certain contributions are specifically excluded. More details can be found in [Paragraph H4124](#) onwards of

the ADM. The same pension contributions may not be deducted from self-employed earnings if a deduction has already been made in calculating the claimant's employed earnings.

It is not possible to create a negative amount, if the income calculated using the formula above is a negative amount then earnings are to be treated as Nil.

Where the claimant belongs to a partnership, the amount of profit or loss taken into account is the amount attributable to their share in the partnership.

If the person has more than one trade, profession or vocation in the assessment period, then the gross profit for each business is added together before the deduction for tax, national insurance and any pension contributions are made. You cannot offset a profit from one business against a loss in another. For example if business 1 had gross profit of £500 in a particular assessment period and business 2 made a loss of £200, the gross profit for that assessment period would be £500. This is because business 2 would be treated as Nil as it is a negative figure.

Section 2.2 - Actual receipts

Any payment actually received during the assessment period is included as an actual receipt, regardless of when it is earned.

Example

John is a painter. His month assessment period for UC runs from 10th of one month to the 9th of the following month. On 31 May, John carries out some painting work for a client for the agreed price of £300. The client pays John the £300 on 15 June.

For UC purposes the £300 will count as an actual receipt for his assessment period 10 June to 9 July even though he did the work and the money was earned in the previous assessment period.

Actual receipts are not defined in legislation but DWP guidance gives examples of the following items which are receipts:

- Any payments for goods and services provided – cash, cheque and credit card payments received in return for goods and services
- Earnings payable abroad – money that is due to be paid to a business in a country outside the UK should be included when it is received by the business
- Personal drawings – if personal drawings have been deducted from the amount shown as an actual receipt, the amount should be added back in
- Sale of certain business assets – where the purchase of an asset has been deducted as an expense in any assessment period and in a later assessment period it is sold or ceased to be used in the business the proceeds of the sale (or the market value if it is ceased to be used) are to be treated as a receipt in the subsequent assessment period. Where only part of the expense was allowable (part business/part personal)

the same percentage will be used when calculating the amount of receipt when the item is sold.

- Tips and gratuities – where received in response to the service being provided, these should be included as actual receipts but not where they are made as a gift on personal grounds and unconnected to the self-employment
- Payments in kind – DWP will decide an equivalent monetary value to include in the actual receipts
- Any VAT receipts
- Refund or repayment of income tax or national insurance contributions relating to the trade, profession or vocation.

It should be noted that capital receipts do not form part of the actual receipts of the business. For example, funds introduced by the owner of the business in order to finance the business or loan capital borrowed from third parties for financing purposes should not be counted as actual receipts.

For VAT, claimants have a choice of how they deal with receipts. The claimant can report earnings inclusive of VAT and then deduct a VAT payment as an expense when it is paid to HMRC. Alternatively, they can report the earnings exclusive of VAT and so no permitted expense would be allowed when payment is made to HMRC.

The [ADM Chapter 4160](#) onwards provides further details about each of these payments, together with some examples.

Section 2.3 - Permitted expenses

Permitted expenses are amounts paid in the assessment period in respect of expenses wholly and exclusively incurred for the purposes of the trade, etc, or an identifiable business proportion of any expenses incurred for more than one purpose. In principle, DWP will deduct from the actual receipts any business expense that

- was paid out wholly and exclusively for the purposes of the business, and
- was paid out during the assessment period, and
- was reasonably incurred, and
- is an allowable expense

Again, only expenses that are paid out during the assessment period can be deducted from the actual receipts even if the money is due to be paid in a different assessment period.

The [ADM Chapter 4197](#) lists allowable expenses and provides more details about these conditions. Some examples of allowable expenses include:

- Regular, day to day costs of the business such as rent, wages, cleaning of premises, accountancy fees, stationery, advertising, phone bills. There is a list in the ADM [Chapter H4214](#) which gives further examples.
- purchase of stock
- utilities, phone and travel costs (provided it is not specifically excluded – see below)

- expenditure on the purchase, lease or acquisition of tools and equipment
- VAT (See above for further explanation about how VAT can be treated)

A deduction can be made for a payment of interest in relation to a loan taken out for the purposes of the trade, profession or vocation, however this deduction cannot exceed £41 in the assessment period. This is a cumulative figure and covers the total interest payable across all relevant loans. This also includes interest on credit cards and overdraft interest and charges if the original expense related to the trade.

No deductions are allowed for:

- Expenditure on non-depreciating assets (including property, shares or other assets held for investment purposes)
- Repayment of capital in relation to a loan taken out for the purposes of the trade, profession or vocation
- Expenses for business entertainment
- Any expenses that were incurred unreasonably
- Expenditure on the purchase, lease or acquisition of a car (see below for details of flat rate expenditure that can be deducted)
- Losses from earlier assessment periods

In some cases, instead of deducting the actual expenses incurred in relation to the acquisition or use of a motor vehicle or expenses incurred using your home for business purposes, certain flat-rate deductions are allowed instead. The claimant can choose which method to use (Except in the case of cars as explained below) but if flat rate expenses are deducted, the actual expenses cannot also be deducted as follows:

- for acquisition and use of a motor vehicle, based on mileage per assessment period for the purposes of the trade, profession or vocation:

| | | |
|--|-------------------------|--------------|
| For a car or van or other motor vehicle apart from a motor cycle | for the first 833 miles | 45p per mile |
| | thereafter | 25p per mile |
| For a motor cycle | | 24p per mile |

Note that for a car, the *only* deduction allowed for the cost of acquiring or running the vehicle is the flat rate deduction shown in the table above. In the case of a motor cycle, van or other motor vehicle other than a car, the claimant may choose between the flat rate deduction (above) or the actual cost of acquiring and running the vehicle under the normal permitted expenses rules.

The definitions of car and motor cycle are taken from the Capital Allowances Act 2001. For these purposes a car means a mechanically propelled road vehicle but not

a motor cycle, or vehicle designed mainly for the movement of goods or burden or any description or vehicle of a type not commonly used as a private vehicle.

A motor cycle is defined as a mechanically propelled vehicle, not being an invalid carriage, with less than four wheels and the weight of which unladen does not exceed 410 kgs.

- for the use of the claimant's home for business purposes, depending on the number of hours spent in an assessment period on 'income generating activities' relating to the trade, etc

| | |
|---|-----|
| At least 25 hours but no more than 50 hours | £10 |
| More than 50 hours but no more than 100 hours | £18 |
| More than 100 hours | £26 |

According to DWP guidance (H4224) income generating activities include:

- providing services to a customer
- general business administration essential for day to day running of the business (such as stocktaking, invoices, receipts)
- action to secure business (sales and marketing)

It does not include:

- using the home for storage
 - time spent on completing tax returns for HMRC
 - being on call or available to undertake work
- Where premises are used by the claimant mainly for the purposes of their business, but are also occupied by them for person use, then they can deduct actual expenses under the normal permitted expenses rules but reduced by the following amounts according to the number of people occupying the premises for their personal use:
 - £350 where only one person is occupying the premises partly for personal use
 - £500 for two persons
 - £650 for three or more persons

Two examples from DWP guidance explain how this works in practice:

Fred is S/E and works from home as a music teacher. He uses the downstairs of the house as a music studio and lives upstairs. When reporting his income for the purposes of his award of UC, Fred says that he incurred S/E expenses relating to the home of £800 in his most recent assessment period. Fred shares his home with his

civil partner, Andre. Andre is not involved in Fred's business. Fred claims £800 in permitted expenses and reduces this amount by £500 as both he and Andre occupy the premises.

Victoria is a pub landlord. The downstairs of the building where she lives is the pub and she lives upstairs with her husband and two children. When reporting her expenses for her award of UC, Victoria reports expenses of £3,500 for the latest assessment period. Victoria decides that trying to apportion these expenses between the pub and home upstairs is not possible but is not sure what to claim. The DM decides that the permitted expenses should be reduced by £650 because there are three or more people occupying the premises.

Section 2.4 - HMRC cash basis

Claimants will be asked to provide evidence of their self-employed earnings. As accounts are generally prepared using accounting principles, they will often show different information to that required for UC purposes and claimants may therefore be asked to provide additional supporting evidence, such as bank statements, purchase receipts or indeed expenses from a different assessment period, to support their claim.

Providing self-employed income calculated on a cash basis for UC purposes present complications for claimants as there are key differences between the accounting mechanisms for income tax purposes and those for UC purposes, outlined below:-

| | Accounting under Universal Credit | Accounting under HMRC's cash basis |
|---|--|--|
| Reporting time frame | Monthly reporting. | Annually by January 31 after the end of the tax year (although this may change under HMRC's proposed digital strategy). |
| Mandatory or optional use of accounting basis | There is no choice on how the monthly accounts are prepared for DWP – they must conform to the Universal Credit regulations. | The cash basis is optional and eligible businesses can elect to use it on an annual basis. However, certain trades are not allowed to use the cash basis and there is also a turnover 'exit' threshold (see below). Alternatively, businesses can use the 'accruals basis' |

| | | |
|-------------------------|--|--|
| | | (generally accepted accountancy practice). |
| Thresholds | There are no thresholds – all self-employed Universal Credit claimants must use the same accounting basis. | Universal Credit claimants must leave the cash basis if their annual turnover is greater than £300,000 |
| Transitional rules | There are no transitional rules; when completing their self-assessment tax returns Universal Credit claimants must adjust their annual accounts to ensure that income and expenses are only declared once. | On switching to the cash basis (and from it to the accruals basis), transitional rules ensure that income and receipts are accounted for only once. |
| Carry forward of losses | There is currently no facility to carry forward losses from one assessment period to another. | Business losses may be carried forward to set against the profits of future years but not carried back or set off 'sideways' against other sources of income (which is possible when using the accruals basis of accounting) |

Section 2.5 Digital service areas

Surplus earnings and losses: In digital service areas, it is expected that the UC rules will introduce a surplus earnings and loss policy in respect of income (The Universal Credit (Surpluses and Self-employed Losses) (Digital Service) Amendment Regulations 2015). These surplus earnings and self-employed losses rules were due to come into force from April 2016 for those claiming in digital UC areas but DWP delayed the changes until April 2017 ([The Universal Credit \(Surpluses and Self-employed Losses\) \(Change of coming into force\) Regulations 2016](#)). On 20 July 2016, a [further delay was announced](#) and the changes will now not be implemented until April 2018.

The basic principle is that if someone has a UC award terminated (for example because their income goes up due to a new job) a calculation will be done to work out their 'surplus earnings' for that month and the following five months. Surplus earnings are essentially the amount of income they have above the point at which their UC would reduce to nil plus a £300 de minimis. If the person then needs to reclaim UC within that period, say because they lose their job after four months, the surplus earnings for those four months will be applied to their new claim as income. This means they will receive either a reduced UC

award or a Nil award and that will continue until the surplus earnings are used up. These surplus earnings will apply to both employed and self-employed claimants.

For self-employed claimants, some recognition for losses will also be introduced. The rules mean that a loss from the previous 11 months can be carried forward and used in an assessment period. However, the loss can only reduce income down to the level of the minimum income floor and it cannot take account of any pension contributions.

Section 3 - Reporting income from self-employment

Claimants must report their self-employed earnings for the assessment period up to 7 days before and 14 days after the end of the assessment period. It is expected that self-employed claimants will do this through the online system, but at present claimants fill in a form or report their earnings over the phone.

Reporting self-employed earnings on time is very important. Failure to do so can lead to UC payment being initially suspended and then terminated if earnings are still not reported within a calendar month of the cut-off date.

DWP guidance states that a UC claimant may submit a set of accounts as evidence of self-employed earnings but it notes that accounts may not provide all of the information a decision maker needs to decide the amount of receipts and expenses.

The guidance states that if accounts are submitted as evidence, the self-employed person should be asked to provide evidence of actual amounts received and expenses paid so that the evidence can be converted into a cash flow basis. This can be done by either providing accounts calculated on a cash flow basis or evidence of actual receipts and expenses paid.

Section 4 - Gainful self-employment

A claimant is in *gainful self-employment* if the Secretary of State has determined that:

- they are carrying on their activity as their main employment
- the earnings from it are self-employed earnings
- it is organised, developed, regular; and carried on in expectation of profit.

Whether a claimant is in gainful self-employment for UC purposes is important because it may have an impact on the claimant's [work-related requirements](#) and it also determines whether:

1. minimum income floor applies to the claimant's S/E earnings
2. the claimant is eligible for a start-up period (see below).

The claimant will be asked to provide evidence of their self-employed activities usually at a 'Gateway' interview shortly after the UC claim has been made.

DWP guidance suggests that the following factors are relevant to the gainful self-employment test:

1. Whether the activity is undertaken for financial gain
2. The number of hours spent each week on the work
3. Any business plan or steps taken to increase income from the activity
4. How HMRC regard the activity
5. How much work is in the pipeline
6. Whether the claimant is actively marketing or advertising for work

There is some recognition in the guidance for new businesses and decision makers are told to consider:

- the business plan or proposal and whether there is a reasonable prospect of the business being an on-going concern in terms of an expectation of profit
- what steps a claimant is already taking to progress their new business activity or towards carrying out work in relation to the business and whether there is work in the pipeline, for example, a list of suppliers, diary of appointments etc
- what work has already been done and what income has been received
- whether the claimant is making it known to potential customers that they are available to take on work, for example, marketing and advertising
- whether the claimant has registered as S/E with HMRC (although this will not verify S/E activity for UC purposes)

For businesses receiving little or no income, the guidance states the following should be considered to determine if the claimant is still gainfully self-employed (if they are then the MIF will apply if they are outside of their start-up period and in the all work requirements group):

- if there is a reasonable prospect of work in the near future
- if the business is a going concern and regarded as such by

- the person
- the business's bankers or
- any creditors or
- others
- if the person is genuinely available for and actively seeking alternative work
- if the person hopes or intends to restart work in the business when economic conditions improve
- if the person is undertaking any activities in connection with the self-employment
- if there is work in the pipeline
- if the person is regarded as S/E by HMRC
- if the person claims to be anxious for work in the trade, profession or vocation. Is the person making it known that the business can take on work? For example by advertising or by visiting potential customers
- if the interruption in question is part of the normal pattern of the person's work

The guidance directs decision makers to consider periods of sickness that are minor and temporary as part of the normal pattern of self-employment which means the person will still be classed as gainfully self-employed.

[ADM Chapter 4020](#) provides more information about how DWP will determine whether someone is in gainful self-employment. Appendix 2 has further examples of the gainful self-employed test.

Section 5 - Minimum income floor (MIF)

Section 5.1 - How the MIF works

For UC purposes, if a person is in *gainful self-employment* in an assessment period, and their earned income (ie their gross profits along with any employed earnings) in that assessment period amounts to less than their individual earnings threshold (the *minimum income floor, MIF*), they are treated as having earned income equal to the MIF.

The MIF only applies to claimants who are placed in the [all-work related requirements group \(or who would be disregarding the operation of the MIF\)](#). Those who are in the no work related activity group, the work focused interview group or the work preparation group are not be subject to the MIF.

If the MIF is applied to a claimant, then they will fall into the no work related activity group and so will cease to have any conditionality applied.

The amount of the MIF is, very broadly, equivalent to the national minimum wage for each hour that the claimant is expected to work. For most people that will be 35 hours a week, however a lesser number of hours should be used if the person meets certain requirements (for example is a carer, foster parent, responsible for a child under the age of 13 or has a physical or mental impairment).

This is then converted to a monthly amount by multiplying by 52 and dividing by 12. From that amount is deducted a notional amount to reflect income tax and national insurance – the amount to be deducted is ‘as the Secretary of State considers appropriate’.

Note however that there is currently no deduction allowed from the MIF for pension contributions meaning that those who are subject to the MIF in reality will not get a true deduction for their pension contributions as their employed counterparts will.

Example

Jack is a 30 year old window cleaner who works full time in his trade. His individual earnings threshold (ie the MIF - the minimum wage for the number of hours the claimant is expected to work) is based on the national minimum wage of £7.50 an hour for a 35 hour week:

$$£7.50 \times 35 = £262.50 \text{ per week}$$

His minimum income floor for any assessment period, using current figures, should therefore be:

$$(£262.50 \times 52) / 12 = £1137.50 \text{ minus notional tax and NI (say } £90.54) = £1046.96$$

Couples and the MIF

A couple will have their individual thresholds added together to create a couples threshold. Where a self-employed claimant is a member of a couple, and their self-employed earnings for an assessment period are lower than the MIF and the couples combined earnings are less than the couple threshold, then the MIF applies to the self-employed earnings but it is

reduced by any amount by which their combined earned incomes would exceed the couple's threshold. This is fairly complicated and is perhaps better explained by way of some examples:

Example

Jack's self-employed earnings for assessment period A are £600. His wife Jill is employed full-time in a bank and earns £1200 net per month. The combined earnings threshold of the couple for a month is, say, £2093.92 (35 hours a week each at the NMW of £7.50 an hour, less tax and NI). Their actual combined earnings are £600 + £1,200 = £1,800

Jack's individual threshold/MIF level is £1046.96. As his earnings are only £600 – he would be treated as having earnings of £1046.96 (i.e. an extra £446.96). Combined with Jill's earnings, their total earnings would be treated as £2,246.96

As this is above their couples threshold of £2093.92 by £153.04, Jack's MIF will be reduced by that amount. So instead of a MIF of £1046.96 his MIF will become 893.92.

The practical impact of this is that the couple are not overall required to earn more than their couples threshold. This is achieved by reducing Jack's MIF level to take account of the excess income that his wife has over her own individual threshold.

If the self-employed claimant has earnings above their individual threshold/MIF amount then no further adjustment is needed. If the couple both have earnings under their individual thresholds, the self-employed claimant will be treated as having income equal to their individual threshold/MIF. Their partner will likely be subject to conditionality requirements because their earned income is lower than DWP expect it to be.

Section 5.2 - Problems with the MIF

The MIF, and other aspects of the way self-employed earnings are calculated for UC, potentially present several problems for those who are starting out in business.

- Because the 'start-up' period is set at 12 months, where a business takes longer than 12 months to become profitable, the MIF will distort its results, particularly when combined with the prohibition on carrying forward losses from one assessment period to the next.
- The deduction of a notional amount of tax and NI each month to arrive at the MIF conflicts with the fact that tax on self-employed earnings is actually paid twice a year. HMRC do offer a Budget Payment Plan for people to pay their self-assessment bills, however there are certain rules attached to this. More information can be found on the [HMRC website](#).
- The MIF does not take account of pension contributions, so a low income self-employed person will not get a full deduction of pension contributions in some cases as their employed counterparts will.
- The above point also applies in any month in which an annual or one-off debt/bill was paid (such as an insurance premium) and deducted from one month's trading receipts.

- Where earnings fluctuate across a year, the MIF does not take any account of such fluctuations.

Section 5.3 - Exceptions to the MIF

There are three situations in which the MIF does not apply at all:

- (1) where the assessment period in question is in or overlaps with the beginning or end of a *start-up period* (broadly, the first 12 months of trading, of which a claimant is allowed only one every five years (reg. 63)), or
- (2) where the claimant is subject to no work-related requirements (ie they are not required to work rather than have sufficient income to put them in this group), or is subject to a work-focused interview requirement or a work preparation requirement only.
- (3) Where the claimant is not gainfully self-employed

More information about the Minimum income floor, together with examples, can be found in [ADM Chapter 4060](#).

Section 6 - Partnerships and sub-contractors

Partnerships

Partners are similar to sole traders, except that ownership and control of the business is shared between two or more people. People can enter into a partnership under an agreement that may be written, for example a deed of partnership, verbal or implied. A partnership can also happen by operation of law without necessarily any intent to form a partnership. A deed of partnership includes details of how any profit or loss is shared between the partners. In the absence of an agreement any profit should be shared equally among the partners.

Where the claimant belongs to a partnership, the amount of profit or loss taken into account is the amount attributable to their share in the partnership.

Sub contractors

A sub-contractor is a self-employed person who enters into a contract with another contractor to do a particular job, and is most commonly found in the construction industry.

The normal self-employed rules in UC will apply to a sub-contractor.

More information can be found in [ADM Chapters 4330 and 4350](#)

Section 7 - Companies

If a claimant has a company or property business that is analogous to that of a sole trader, they will be treated for UC purposes as being a sole owner or partner. DWP guidance states this is a question of fact in each case. Broadly speaking, a property business exists where it is generating income from land either in the UK or abroad.

Where this applies, they will generally be treated as possessing an amount of capital equal to the value (or their share of the value) of the capital of the company/property business and the value of their shares in the company will be disregarded when working out their capital.

In relation to a company which is carrying on a trade:

- any assets of the company that are used wholly and exclusively for the purposes of the trade are disregarded from the claimant's capital while they are engaged in activities related to that trade.
- The income of the company, or that person's share of that income, is to be treated as the person's income and calculated in the same manner as other self-employed UC claimants. If the activities in the course of the trade are their main employment then they will be treated as if they are in gainful self-employment and the minimum income floor will apply.
- Any self-employed earnings under these rules are in addition to any employed earnings that the person receives as a director or employee of the company.

These rules do not apply where the income is employed earnings under arrangements made to workers by intermediaries or through managed service companies.

The purpose of these rules are to stop claimants from forming a company in order to avoid the harsh effects of the MIF.

Appendix A - Summary of differences between tax credits and UC

There are several notable differences between the established tax credits system and the new Universal Credit system in the treatment of claimants who are self-employed. Many of these differences will mean claimants who have become familiar with tax credits will need to particularly pay close attention to the rules for UC, to ensure they receive the correct award and can consider making their own provision to support them through some of the more restrictive changes.

The table below outlines the main distinctions:-

| | Tax Credits | Universal Credit |
|--|--|---|
| Treatment of losses | Losses can be offset against the total household income in the first year and any remaining loss not used up this way can be offset against income from the same trade or profession in subsequent years | No deduction is currently allowed for losses. |
| Reporting timeframe | Based on annual income, reported annually, by 31 January after the end of the tax year (optional – can be done more frequently if wide fluctuations anticipated on figure already held) | Income must be reported every month, within 14 days of the end of the assessment period |
| Allowable expenses | Purchase costs of motor car allowed and interest on business loans. Reasonable Business entertainment expenses allowed. Income Tax and National Insurance are not allowable expenses | Interest on business loans only allowed up to £41 in any assessment period. Purchase cost of motor car not allowable expense. No business entertainment expenses allowed. Income Tax and National Insurance are allowable expenses within the monthly assessment period in which they are paid. |
| Other income, including property income | Income from property is treated as other income and subject to the 'Other Income' £300 disregard | Income from property included, no specific disregard other than permitted expenses |
| Minimum Income Floor | Only actual income earned, calculated annually, is taken into account as trading income and losses are taken into account. | If income is below the personal threshold (including where the business makes a loss) in a monthly period then this artificial income level |

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| | | applies to those who are gainfully self-employed (after the 12 month start-up period and only if in the all-work requirements group). |
| Thresholds | Claimants must leave the cash basis if their annual turnover is greater than £300,000 | There are no thresholds – all self-employed Universal Credit claimants must use the same accounting basis. |
| Mandatory or optional use of accounting basis | The cash basis is optional and businesses can elect to use it on an annual basis. Alternatively businesses can use the 'accruals basis' (generally accepted accountancy practice). | There is no choice on how the monthly accounts are prepared for DWP – they must conform to the Universal Credit regulations. |
| Income | Income receipts do not include refunds of income tax and national insurance. | Income receipts include refunds of income tax, national insurance and VAT. |

[Appendix B - Legislation and Guidance on self-employment](#)

The main detailed guidance about self-employment under Universal Credit can be found in the DWP's ADM, [Chapter H4](#).

The main legislation for self-employment is in the Universal Credit Regulations, [SI 376/2013 \(As amended\)](#). You can find all legislation relating to Universal Credit on [Revenuebenefits](#).

[Chapter 2, Reg.51](#) et seq. provides the introduction to the general principles covering 'earned income', with the main regulations covering self-employed earnings in particular found at [Reg. 57](#) et seq.

DWP have also produced a [factsheet](#) providing information for claimants and their advisers on self-employment and UC.

ABOUT US

This guide was written by the Low Incomes Tax Reform Group, an initiative of the Chartered Institute of Taxation. The guide is available on our www.revenuebenefits.org.uk website and is specifically aimed at advisers who require more detail.

The guide is intended to provide general information only and does not constitute advice. You should neither act, nor refrain from action, on the basis of any information in this guide. The law is complicated with tax and benefit laws changing often. Before taking action, you should get appropriate advice either from a professional adviser or from the relevant Government department. We have done our best to ensure that the information in this guide is up to date as of May 2017.