Associate Worker status - it’s complicated

Following the recent N Sejpai-v-Rodericks Dental case (EAT-2020-001407-AT), there has been discussion in the dental sector about the status of Associates and whether they are self-employed, workers, or both. Worker status is relevant for tax, employment rights including holidays and discrimination claims. Many Associates will prefer self-employment due to the flexibility and tax benefits. However, it could be the case that one could be considered self-employed for tax purposes by HMRC and still be a worker.

Senior Partner at Dental Accountants, Morris & Co, Nick Ledingham explained, “this is an extremely complicated area and there is no ‘one size fits all’ I’m afraid. Employment law is very case specific and in my experience, the issue will not affect all Associates. As ever, it is important to seek specialist advice.”

Chris Davies, Head of Healthcare at JCP Solicitors said: “There are a number of factors to consider when examining any healthcare employment case, with the issue of personal service, in particular, set to be crucial when looking into the issue of an individual’s employment status for employment rights purposes.

“This is an evolving area of the law, and we are monitoring influential cases which could set a precedent such as N Sejpai-v-Rodericks Dental Limited, which has been remitted back to the Employment Tribunal for final determination following a successful appeal to the Employment Appeal Tribunal. This case could have wide-ranging implications for the future of healthcare employment law, so we are watching this carefully.

“Employment rights and the issue of self-employment in the healthcare sector is a highly complex area of law and should be approached with expertise on a case-by-case basis.”

Dental practices across the country would be wise to keep this particular case under review and to follow the outcome as to how the employment tribunal deals with the questions of:

- whether individuals are carrying on a profession or business undertaking; and
- whether and in what circumstances a party is likely to be considered a client or customer in the context of dental practice relationships with Associates.
Employment cases are very fact specific. However, the outcome of the aforementioned case could potentially have implications for dental practices across the country, who tend to operate on the basis that Dental Associates are self-employed and not employees or workers.

ENDS

Note to editors:

NASDAL, the National Association of Specialist Dental Accountants and Lawyers, was set up in 1998. It is an association of accountants and lawyers who specialise in acting for and looking after the accounting, tax and legal affairs of dentists. It is the pre-eminent centre of excellence for accounting, tax and legal matters concerning dentists. Its members are required to pass strict admission criteria, and it regulates the performance of its members to ensure high standards of technical knowledge and service.

Heidi Marshall, the Chair of NASDAL, is available for interview. To organise to speak to her or any other members of NASDAL for more information please contact Chris Baker.

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