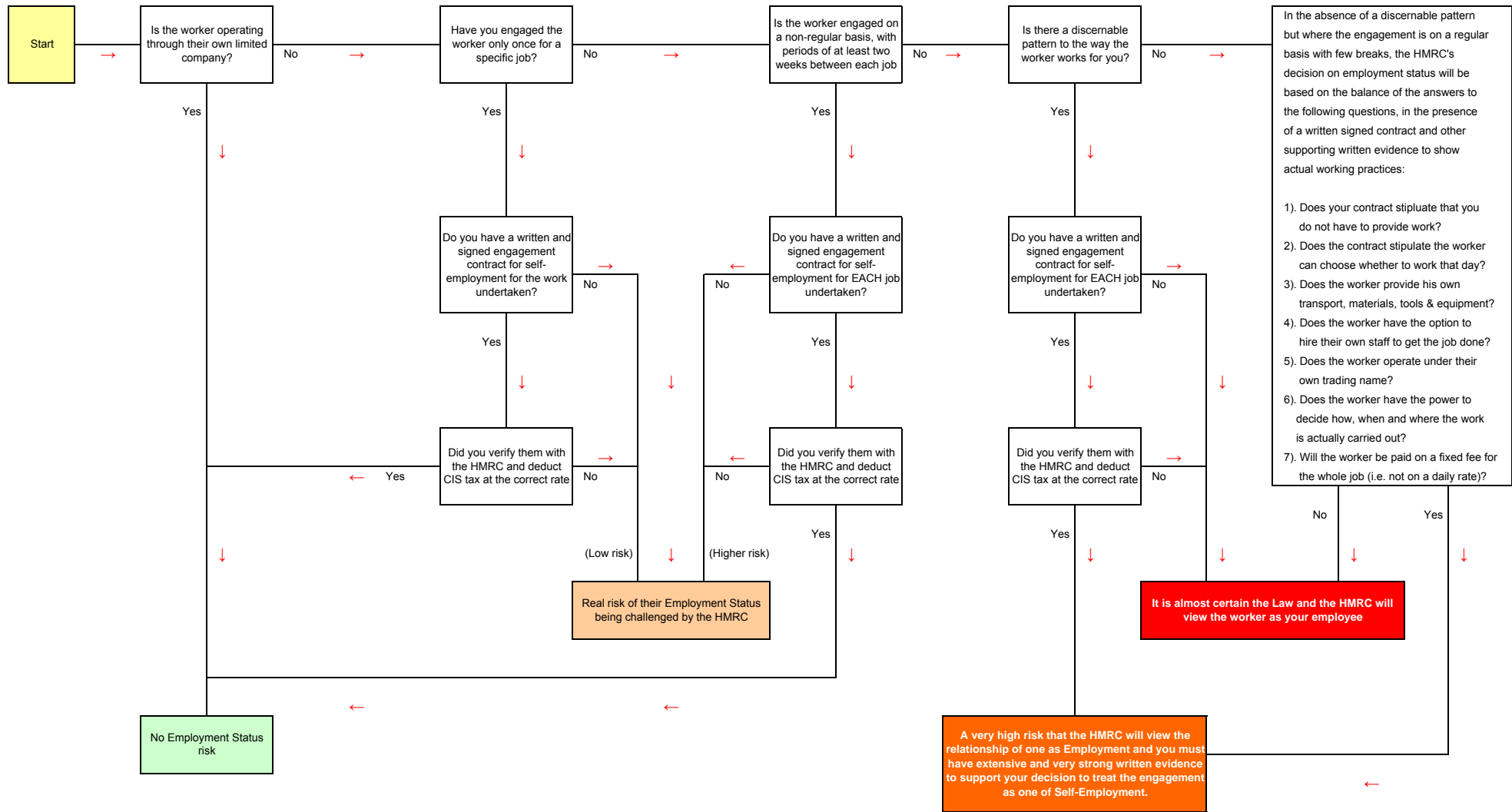


A Decision Tree Flowchart To Help You Identify The Risk That The HMRC May Challenge The Self-Employed Status Of One Of Your Sub-Contractors



The employment status of every worker has to be considered in the light of the specific circumstances that surround each engagement. It is possible that the same worker could be judged 'self-employed' on some contracts, but judged to be 'employed' on other jobs running at the same time.

The only certainty with employment status is it isn't an issue for you if the sub-contractor works and bills you under their own limited company. In all other cases, the decision on employment status will be judged after taking into account the relevance of the standard 'Hallmarks of Employment'. These are a complex series of considerations that have grown from Case Law and their interpretation is very subjective and difficult to apply. Should you ever suffer a Compliance visit from the HMRC, they will find it easier to show 'employment' status does apply, than for you to demonstrate the opposite ... especially in the absence of signed, dated and relevant contracts for EACH and every job that supports the self-employment basis of the relationship.

It should be borne in mind that because so many workers in the construction industry work on the basis of a fixed day rate, share transport, where the engager supplies the tools and materials on-site, the bias is already leaning towards 'employment' status for many workers who are retained, even for short periods of a few days. If the same workers are continuously re-engaged, even with breaks, the problem to support 'self-employment' becomes even harder.

For this reason the above flowchart is only a rough guide to the factors that should be considered. Please contact MAAP Accountants on 01202 474545 if you wish to discuss the employment status of any specific sub-contractor cases.

One final point. The vast majority of case law surrounding employment status, is when a sub-contractor suffers a personal injury or financial loss on the job, and then contrary to your understanding of the situation, claims that they were employed by you so that they can make a claim on your insurance.