

Employment Allowance – Further Guidance for the Childcare Sector

Background

- The Employment Allowance (EA) was introduced in 2014 to support employers and encourage employment. It works by allowing eligible businesses to reduce their employer National Insurance contributions (NICs) liability. For more information on eligibility and how to claim please see <https://www.gov.uk/claim-employment-allowance>.
- If you are currently eligible to claim Employment Allowance, you will continue to be eligible under the new rules. The changes announced at the Budget last year widen eligibility.
- From 6th April 2025, Employment Allowance is being increased to support more businesses by providing relief of up to £10,500 per annum on their employer secondary Class 1 NICs liabilities.
- Businesses who undertake more than 50% of their work in the public sector are not eligible to claim the Employment Allowance (EA). These rules are not changing, so if you currently receive EA then you can continue to do so.
- Private day nurseries and other private early years' providers will not usually come within these "public sector" rules.
- Lots of early years providers receive income via Government-funded childcare places, but receiving Government funding is not, by itself, an indicator that work is of a public nature.
- Businesses only need to think about any Government funding they receive when 50% or more of their business activities involve the performance of functions of a public nature. The provision of childcare by a private business to members of the public would not be considered a function of a public nature.
- Early years childcare providers are entitled to claim the Employment Allowance if they are private businesses or charities. This includes Local Authority or central Government-funded institutions provided they have charitable status.
- Each business should consider their structure and how they operate to understand their eligibility.

Examples

1. OM Early Years Limited runs a private day nursery, employing a number of staff. In total, 70% of the places are funded through the Government scheme, although in practice this equates to 80% of the total business turnover. OM Early Years Limited is a private business providing services only to members of the public and is not undertaking work of a public nature, therefore OM Early Years Limited **will be entitled** to claim Employment Allowance.
2. St. Christine's is a Local Authority primary school and decides to offer breakfast club for the younger children. The staff employed on this are funded from the school's operating costs with a small contribution from those parents who use the facility. There would be **no entitlement** for Employment Allowance against the secondary Class 1 NICs for the staff engaged in the provision of childcare as St. Christine's is a school run and funded by the Local Authority. The work of the school takes up considerably more than 50% of the operations of St. Christine's.

- 3a. Chris offers a childminding service from home, looking after 4 children. Chris is a sole trader and as such **would not be entitled** to claim Employment Allowance.
- 3b. Chris registers as a limited company, Chris CM Limited. As such Chris is now the director and only employee, still providing childminding services to 4 children at Chris's home. Limited companies **cannot claim Employment Allowance** if they have just one director and that director is the only employee liable for secondary Class 1 National Insurance.
- 3c. Chris CM Limited decides to employ a second member of staff as a childminding assistant. Once the assistant starts to earn above the secondary NICs threshold, then Chris CM Limited **will be able to claim** Employment allowance and the allowance can then be set against the secondary class 1 NICs liabilities arising on both the employee's and the director's employment earnings.
4. LD Catering Limited provides catering services to a number of factories and caters various private events. A Local Authority engages LD Catering Limited to provide school dinner services at a local primary school. LD Catering Limited must consider the impact of this contract on their eligibility for Employment Allowance. The school dinner contract does meet the criteria of being of a public nature as LD Catering Limited are 'standing in the shoes' of the Local Authority, but in terms of staffing resource, time, and turnover this does not represent more than 50% of their work. LD Catering Limited would not be considered a public authority and **will be able to** claim Employment Allowance.
5. ER Tech Limited is a technology start-up developing mobile apps for the open market. ER Tech Limited applies for a Government grant to open an office and employ 5 members of staff. This is successful and they are awarded enough funding by the Government to cover the first 2 years of running costs and wages. This amounts to 80% of the business funding over this period. ER Tech Limited is essentially Government-funded but it is not delivering a function of a public nature because it is a private business providing services to members of the public, therefore ER Tech Limited **will be entitled** to claim Employment Allowance.