

Keep full documentation of payments to family

Wage payments to children and other family members must be properly documented, otherwise there is a risk of challenge from HMRC that they are not genuine business expenses.

This advice from accountant Julie Butler of Butler & Co results from a recent HMRC tribunal which disallowed a sole trader's payments to his son as wages, finding that the expenditure was not wholly and exclusively incurred for business purposes.

"Many farming family members are paid by the farming partnership or by their sole trader parent in very genuine conditions, often while

the family member is at agricultural college and works part-time on the farm around study," says Mrs Butler.

"This case shows the importance of properly setting up and recording the payments."

The First-Tier tribunal (FTT) said the self-employed taxpayer could not deduct the £7,400 "wages" he paid to his son as an expense against his self-employment income, because there was a dual purpose to the payments.

They were "natural parental love and affection" and/or "personal benefit" purposes rather than solely a business purpose, accord-

ing to the tribunal. A significant issue was that there was no methodology or record-keeping of the hours worked or payments made.

However, the tribunal noted that it was likely the expense would have met the wholly and exclusively test if the son had been paid on a more time-recorded basis or had there been some form of methodology in calculating the amount payable and an accurate record maintained of the number of hours worked.

"This case shows the need for accurate record-keeping for labour or services provided

to avoid challenges by HMRC

by family members, just as with any other employee, along with evidence of the work carried out, so that such payments can count as deductible expenses," says Stacey Parkinson, payroll manager at Butler & Co. Miss Parkinson recommends some simple steps for those employing relatives which would make it difficult for HMRC to challenge genuine payments:

- Make a simple agreement covering, as a minimum, the duties to be performed, the hours to be worked and the rate of pay.
- Keep a payroll record, contemporaneous

with other business records.

- Pay your relative in full straight into their bank account to avoid "payments in kind".
- Keep some evidence of the work they have performed.
- The payments must comply with the real time PAYE reporting requirements.

ONLINE

Keep things running smoothly – read tips for better staff management at www.fwi.co.uk/better-boss

WHAT WAS CLAIMED

The wages claimed were based on 15 hours a week at £10/hour for internet promotion of the business, leaflet distribution and computer work, although there was no evidence to support this.

The son carried out these duties while at university. Wages were paid partly in cash (a £1,850 credit on bank statement) and partly in food and drink paid for by the parent when visiting his son, whose weekly food shop was also paid for.