

Contracting and claiming statutory sick pay (SSP) for limited company contractors

As employees of their [limited companies](#), contractors can claim up to £81.60 per week in statutory sick pay (SSP) from their company if forced to take time off through illness. And this can be paid for a period of up to 28 weeks if the condition is serious, explains [James Abbott](#), owner and head of tax at contractor accountant [Abbott Moore LLP](#).

If a contractor is entitled to recover SSP, it can be deducted from the contractor's payroll liabilities, or reclaimed from HMRC directly if there are insufficient Pay As You Earn (PAYE) funds to cover payment. However, Abbott warns that although SSP can be a welcome income during a period of no earnings, it won't financially support most limited company contractors through a long-term illness. So other financial provision is recommended, such as a healthy cash balance in the business and [income protection insurance](#).

Contractor eligibility for SSP

Contractors are employees of their limited company so may be eligible for SSP, just like any regular employee. To qualify, contractors must:

Be off sick for four days

Notify their employer (their company, not the client) according to the policy on sickness in their employment contract, or if the contract does not specify a notification period, within a statutory seven days

Earn above the lower earnings limit.

Have at least one Qualifying Day in each week, ie these are the days they normally work. For most contractors this would be Monday to Friday.

The three days before SSP kicks in are called 'waiting days', for which contractors never receive SSP unless consecutive periods of time off for sickness are linked. Linked periods of sickness are consecutive periods that occur less than 56 days apart, and where the second period is for four days or more. There is currently no requirement for a 'sick note' or doctor's visit to justify a claim for SSP.

"A contractor receives £81.60 per week pro rata," continues Abbott. "The daily rate of SSP is the weekly rate divided by the number of Qualifying Days in that week. So if, for example, a contractor is sick for a full working week, which is Monday to Friday for most contractors, the first three days are 'waiting days' and unpaid, and they will receive two-fifths of £81.60, or £32.64."

If the contractor works Monday to Saturday, then in this case they would be entitled to three-sixths of £81.60, or £40.80

Calculating the lower earnings limit

To qualify for SSP, a contractor's average weekly earnings must be above the lower earnings limit, which at the time of writing is £102 per week earned in the period of at least 8 weeks before the first day they are off sick. Under most circumstances a contractor would qualify, but there is a complex method of calculating a worker's average earnings that will confirm whether a contractor's pay qualifies.

Abbott explains: "Take the day of the last normal payday before the first day off sick. For example, if a contractor is sick on 6 February, the last payday is 31 January. You then go back a further eight weeks to the next payday, which would be 30 November. Go forward a day from that payday, to 1 December, and this is the start of the earnings period on which the weekly average earnings are based."

Continuing the above example, say a contractor was paid £1,000 on 31 December and £500 on 31 January, the average earnings are calculated by:

Adding the two paydays to total £1,500

Averaging, by dividing the total by the number of months, two, to equal £750

Annualising the average by multiplying by 12 to equal £9,000

Then calculate weekly earnings by dividing the annualised salary by 52, to make £173.07.

"In this case the contractor would be eligible because they earn above the lower earnings limit," says Abbott. "But you can see how easy it could be for a contractor with an erratic earnings pattern not to qualify because of how the average weekly earnings are calculated."

A change of hats: reclaim of SSP by employers

Having paid themselves SSP as an employee, contractors can then reclaim SSP from payroll liabilities or directly as an employer from HMRC.

According to Abbott, an employer can only reclaim SSP if the SSP payments made to employees are greater than 13% of the company's gross Class 1

National Insurance Contributions (NICs) liability for that month. HMRC calls this the Percentage Threshold Scheme (PTS).

"Employers normally recover SSP payments to their employees by calculating the PTS and total SSP payments on a monthly basis, and then claim the surplus of SSP above the PTS from their income tax and NIC liabilities under PAYE."

This means that contractors inside [IR35](#), or who choose to pay themselves a salary above the personal allowance, can offset SSP to themselves from the money they owe HMRC for income tax and NICs.

Contractors paying the more conventional [low salary and high dividend](#), which may result in little or no payroll liability, have nothing to offset SSP against. In this situation [HMRC's guidance](#) on calculating and recovering SSP tells contractors to contact their HMRC Accounts Office directly.



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James Abbott is the owner of Abbott Moore LLP and often speaks on freelancer / contractor tax matters. He has his own growing portfolio of contractor clients.

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"In practice, contractors with a financial and health profile that means they might benefit from claiming SSP should ask their accountant for advice first," advises Abbott, "particularly if there are long-term implications for their contracting business."

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