
SECRECRUITMENT.COM/IR35

THE CONTRACTOR'S GUIDE TO IR35



Navigating changes to IR35 legislation



As a contractor working and operating within the UK, your IR35 status is what determines your annual tax contributions. Contractors that are working through a limited company and are operating outside IR35 are entitled to receive payment in the form of withdrawn dividends. Those inside IR35 are regarded by HMRC as 'disguised employees' and should receive payments through PAYE.

The legislation has been in place since 2000, but some upcoming amendments could mean a difference in the way you work if you're offering your services in the private sector.

WHAT THE UPCOMING CHANGES MEAN

In April 2021 responsibility for determining IR35 status is shifting from the limited company to the end client, or recipient of the service; it's a switch we already saw in the private sector back in 2017.

The amendments are coming into play with the aim of eliminating the avoidance of tax and National Insurance Contributions (NICs) when working through an intermediary, such as an umbrella company, in circumstances where the individual worker would otherwise be regarded as an employee of the end client.

HOW YOU CAN PREPARE

If you're currently working one or more assignments, ensure your contracts are accurate and consistent, and that they don't state you're subject to procedures or processes that would typically apply only to an employee.

Ensure your clients think the same way you do, and understand that you are engaged for a specific project or assignment, rather than seeing you as an extension of their workforce.

If you're working with an agency, communicate with them to ensure you're also on the same page when it comes to the status of your role; they should be able to inform you as to what change, if any, your assignment will undergo as a result of the new changes.

FAQs



WILL IR35 AFFECT ME?

If you are a contractor working through a limited company, pay yourself a salary, and draw profits as dividends, the upcoming changes could affect you. After the changes come into play you may be required to join a company payroll, depending on whether your assignments are deemed inside or outside IR35.

WHAT IS THE DIFFERENCE IN AN ASSIGNMENT INSIDE IR35 COMPARED TO ONE OUTSIDE IR35?

Assignments are deemed inside IR35 when you are considered, for tax purposes, an employee of your end client and therefore subject to PAYE.

Assignments are deemed outside IR35 when you are operating as a genuine business.

IS THERE A LEGAL DEFINITION OF AN "EMPLOYEE" OR AN "INDEPENDENT CONTRACTOR"?

Case law is used to decide whether an individual supplying their services to a company is classed as an employee or is a self-employed contractor. Generally, HMRC will look at both the contracts between the parties and the working practices (the way the work is performed in reality).

WHO IS RESPONSIBLE FOR DETERMINING IF MY ASSIGNMENT FALLS INSIDE OR OUTSIDE IR35?

Case law is used to decide whether an individual supplying their services to a company is classed as an employee or is a self-employed contractor. Generally, HMRC will look at both the contracts between the parties and the working practices (the way the work is performed in reality). Before 6 April 2021, if your client is in the private sector, it's your limited company's responsibility to decide your own employment status for each assignment.

Once the changes come into effect in April 2021, the responsibility of defining the IR35 status of the assignment will switch from the individual's Ltd company to the End client, as the recipient of the services..



WHAT FACTORS ARE CONSIDERED WHEN DETERMINING THE STATUS OF AN ASSIGNMENT?

There are several considerations the end client will use to determine the status of a role. Take a look at the below statements; if more statements in the left column apply, it's likely the role falls inside IR35. On the other hand, if more in the right column apply, it's likely to be outside. This is just a guide; please contact us for help making a determination.

INSIDE IR35

- The worker must personally carry out the work
- A substitute can be provided by the end client
- The worker is subject to the end client's direction or supervision (could be move different tasks without consent required and the working hours/days are set)
- The worker receives overtime pay or a bonus.
- The worker cannot be identified separately from the client's employees (e.g if the worker wears a Company badge)

OUTSIDE IR35

- The worker can hire someone else suitably qualified and skilled to do the work, or engage helpers at their own expense
- The worker risk their own money (e.g provides the equipment they need to do the job, accept a reduce payment for late or unsatisfactory work)
- The worker is not entitled to employee benefits including holiday, sick pay and maternity pay
- The worker can decide how and when to provide the services
- The worker regularly works for a number of different clients

HOW DOES AN ASSIGNMENT DEEMED INSIDE IR35 WORK WHEN WORKING THROUGH AN AGENCY?

The end client pays the agency in return for any work done, and the agency (or an intermediary, such as an umbrella company) will be required to deduct your tax and NICs. SEC has partnered with FSCA accredited umbrella companies, and when working with us, the umbrella company will act as your employer and directly deduct your tax and NICs at source.

HOW DOES AN ASSIGNMENT DEEMED OUTSIDE IR35 WORK WHEN WORKING THROUGH AN AGENCY?

The end client will pay the agency in return for any work done, and the agency pays the contracted amount to the limited company. The limited company/contractor will then be responsible for their own tax contributions and draw dividends to pay themselves a salary.



SUPPORTING YOU THROUGH THE CHANGES

We've partnered with the leading provider of specialist contractor insurance services, Qdos Contractor, to provide a bespoke IR35 solution to our contractors and clients which includes a digital IR35 determination tool. Their online portal combines case-by-case assessments with a management system, can be used by recruitment agencies and end clients engaging contractors under the off-payroll working rules, and includes a Tax Liability Cover.

GET IN TOUCH

For any questions about the digital determination service, what the changes mean for you or concerns about your own IR35 determination, reach out to our compliance department.

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