

IR35 – short for Inland Revenue press release number 35 – has been with us for 20 years. HM Revenue & Customs introduced rules to stop what they call “disguised employment”, where contractors would be treated as employees if it were not for their limited company. These rules have impacted limited company contractors providing high level knowledge skills in sectors such as IT, engineering, finance, marketing and technology.

Providing a flexible workforce of freelancers, consultants and contractors has benefited both clients and the economy, while workers obtained tax and national insurance savings.

For the past two decades, contractors have been self-assessing their contracts and working practices to decide if they are “caught” by the IR35 rules. These rules were updated in 2017 for public sector contractors and HMRC are looking to expand this to the private sector.

Important changes

From 6 April 2020, medium and large size businesses in the private sector will now be responsible for determining the employment status of contractors engaged via an intermediary, usually a Personal Service Company.

What happens next?

By 6 April 2020, the End Client hiring your Personal Service Company will provide you with a “Status Determination Statement”.

If they determine you are an employee for tax purposes, tax and national insurance will be deducted and paid to HMRC before your company is paid the net balance.

If they determine you are self-employed for tax purposes, nothing changes. You will need to calculate your tax obligations as usual

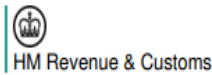
Status Appeals

If you disagree with the hirer’s determination of your Personal Service Company’s status, there is an appeals process. Once you have provided details of why you disagree, the hirer has 45 days to respond. Failure to do so leaves hirers liable for any employment taxes.

What you need to do before April

- If you contract for a medium or large organisation, ask for a “Status Determination Statement”
- Review your contract on HMRC’s CEST (Check Employment Status for Tax) tool: <https://www.gov.uk/guidance/check-employment-status-for-tax>
- If the results show IR35 does not apply, keep a copy of them and use them to consider an appeal
- If you do not have grounds for appeal, discuss if your working practices and contract can be improved

HMRC have advised they will stand by the result of the CEST tool as long as the information provided is accurate. Here are samples of positive and negative conclusions:



Check Employment Status for Tax



HM Revenue & Customs

Check Employment Status for Tax

For your records

Off-payroll working rules (IR35) do not apply

Why you are getting this result

Your answers told us you or your business will have to fund costs before your client pays you.

This suggests you are working on a business to business basis.

What you should do next

Download a copy of this result and show it to the organisation hiring you. They need to pay your earnings in full, without deducting Income Tax and National Insurance contributions.

It is important that you keep a copy of this determination for your records.

About this result

Date of result:
11 February 2020, 15:07:40 (UTC)

Decision service version:
2.4

HMRC will stand by this result as long as it reflects the actual or expected working practices. If these working practices change, you should use this tool again.

For your records

Off-payroll working rules (IR35) apply

Why you are getting this result

The answers you have given suggest you are providing a personal service to your client. This means you are classed as employed for tax purposes for this work.

What you should do next

You told us you are providing your services through an intermediary, such as a limited company, partnership, or unincorporated body. Your intermediary needs to operate PAYE on your earnings.

It is important that you keep a copy of this determination for your records.

About this result

Date of result:
11 February 2020, 13:28:54 (UTC)

Decision service version:
2.4

HMRC will stand by this result as long as it reflects the actual or expected working practices. If these working practices change, you should use this tool again.

Final Comments

These changes may increase the tax personal services company and contractors pay by around £10k pa. Those genuinely running a business outside these rules may be caught unfairly.

Several medium and large organisations have de-risked their exposure to getting the tax administration wrong by no longer hiring contractors. This is an unintended consequence of the rules: end clients do not want the responsibility, risk or workload of adopting these new rules, so are making blanket decisions to hire this workforce via umbrella agencies rather than through personal service companies.

We can help with IR35 insurance for the costs of professional representation if your IR35 status is challenged by HMRC.

We can also provide contract reviews if a more in depth opinion is needed.

Find out more

For further information, advice and guidance please contact one of our specialists:

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This is a general illustrative guide only and individual professional advice should be obtained on specific issues. Information is believed correct at time of publication.

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