

# IR35 PRIVATE SECTOR CHANGES

A GUIDE FOR CONTRACTORS  
OPERATING A PSC

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## WHAT IS IR35?

IR35 is a piece of legislation that was put in place to combat disguised employment. Contractors (working through their own personal service companies (PSC) ) who do not meet the definition of self-employment set out by HM Revenue and Customs (HMRC) and are seen as disguised employees, may find that they are caught by IR35, which will increase their tax and national insurance obligations.

The legislation was first put in place in April 2000 with the purpose of preventing contractors from receiving the tax benefits that are available to limited company contractors if being treated in the same way as employees.

A contractor who is outside of IR35 would be working through a PSC separate entity and would not be receiving the benefits that permanent employees receive. As a PSC limited company contractor who is working outside of IR35, you are entitled to increased tax planning opportunities, which compensate for the lack of job security and other benefits.

The regulations that surround what constitutes being inside or outside IR35 are extremely complex and as mentioned above, will depend on the contract in question and your working practices.

## CURRENT IR35 RULES

Under the current rules, responsibility for carrying out this assessment in the private sector falls on the PSC (i.e. Director of the limited company) and, where the legislation applies, the PSC is responsible for operating PAYE and accounting for income tax and national insurance (employee's and employer's) on the payments it receives from the client/agency, as if such payments were payments of employment income.

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# NEW PRIVATE SECTOR RULES - MEDIUM & LARGE SIZE BUSINESSES

Under the new rules, the responsibility for determining whether IR35 applies will move from the PSC to the private sector client. If deemed inside of IR35 the party closest to the PSC in that chain will be responsible for operating PAYE and accounting for income tax and national insurance.

## WHEN DO THE NEW RULES TAKE EFFECT?

On 17th March 2020, the Government announced that the changes to the off-payroll working rules would be delayed from the original date of 6 April 2020 until April 2021. This is a deferral and not a cancellation in light of the Coronavirus outbreak to help businesses and individuals.

## DIGITAL TOOL

End clients will need to have systems in place for checking the status of their off-payroll engagements. HMRC's CEST online digital tool is intended to help assess whether engagements fall within the scope of IR35. Provided that you entered accurate and reliable information, HMRC will stand by the results which the test gives.

## IR35 FOR CONTRACTORS OPERATING A PSC

If you currently trade through your own limited company (PSC) you may be concerned about the changes arriving in 2021.

As we mentioned above, from April next year medium and large-sized businesses will be responsible for determining the IR35 status of the contractor; if you are in engagement with small business then the assessment process stays with you – the contractor.

What you can do to prepare:

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**INTENTIONS** – Open a discussion with your client to see what their intentions are, since after the reform it will be their responsibility to determine your status.

**CHECK YOUR STATUS** - Use HMRC's CEST tool, which may not be perfect, but enough to give you an indication. We recommend having a professional review done for complete peace of mind. Qdos Contractor offers a discount to our clients, so contact your accounts manager for contact details.

**PROCESS** – Talk to your agency or client and ask/encourage them about getting on board with the process. This can help you down the road and let you continue with your assignment with a compliant organisation and without interruption.

**NOTE** - It is worth noting that nothing will change until the legislation is actually in place in April 2021. Until then contractors are still responsible for determining their own status. If your end client is a small business nothing will change even after the reform.

## **INSIDE IR35 - WHAT OPTION IS BEST FOR ME? - PAYE, UMBRELLA OR PSC**

Private Sector contractors operating via a PSC and deemed to be inside IR35 receive payment to their PSC after deductions of income tax and national insurance and so will not have income from which to process expenses, or receive dividends so the worker may no longer see the benefit of operating via their own company.

### **SMARTWORK UMBRELLA**

As a result of the changes, you can see why many workers are looking to migrate over to an umbrella solution. Working via an umbrella company like our sister company SmartWork ensures compliance and provides you with other benefits such as:

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- Full employment benefits such as SMP, SSP, Sick and Holiday Pay
- Membership of SmartWork's auto enrolment pension scheme
- Higher rate of Pay – working via an umbrella usually means that your agency will offer a higher hourly rate because they don't have employment cost
- Allows you to work on multiple assignments
- Minimal administration from your part
- Ability to claim expenses (subject to Supervision, Direction and Control assessment)
- Dedicated business manager
- Availability of contact outside office hours

## UMBRELLA v AGENCY PAYE

Working through an umbrella company is generally preferred to working PAYE through your agency where you may not be able to claim expenses as most agencies do not offer this option with their PAYE services. An umbrella company will also handle all of your administration in addition to providing full employee benefits. Both options are taxed under the PAYE (Pay As You Earn) system so you don't need to worry about your taxes.

One of the main differences when working through an umbrella as opposed to your agency is your ability to work on multiple assignments, building up employment history.

## SMARTWORK UMBRELLA & LIMITED DUAL SERVICE

If your current engagement falls inside IR35 but you wish to keep your limited company for future contracts outside IR35, we offer an option for you to do just that.

With a fixed monthly fee of £95+VAT, our sister company SmartWork will oversee your umbrella income and we continue to look out for your PSC limited company, so that it is ready for you to pick up where you left off.

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It is important to remember that despite the changes in legislation, working outside IR35 and via a limited company is still the most tax-efficient way of trading. Please contact either MyAccountant or SmartWork for more information regarding our dual-service option.

## **FREE CONSULTATION**

As a result of the changes, MyAccountant and SmartWork are offering a free Consultation to all workers to discuss the new legislation in more detail. If you would like a conversation with some impartial tax advice please feel free to call us on 0800 917 9100 or email [info@myaccountant.co.uk](mailto:info@myaccountant.co.uk)

After the consultation we will provide a detailed illustration with an indication of the potential net take home.

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