



IR35 2021

CONTRACTOR GUIDE

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»»» ABOUT THIS GUIDE

Important changes to the IR35 legislation will be introduced on 6th April 2021. If you are a contractor providing your services through a limited company, these changes may affect you.

In this guide we will provide an overview of the legislation, what is changing and how it may impact you. It is not designed to provide specific legal advice.

»»» WHAT IS IR35?

IR35, also known as the Intermediaries Legislation or the Off-payroll rules, was first introduced by HMRC back in 2000 to tackle what they saw as the “disguised employment” of contractors providing their services through a limited company. The point was to ensure that anyone working like an employee is taxed as an employee.

PAYE employees, umbrella company workers and self-employed sole traders (including CIS workers) are not in scope of the IR35 legislation.

»»» DOES IR35 MATTER?

Yes - the IR35 status of an Assignment dictates how much tax you pay, and how much you get to take home. For Assignments that are considered caught by IR35, most of the income paid to your limited company is subject to PAYE and Employees and Employers National Insurance deductions.

»» WHAT MAKES A CONTRACT "CAUGHT" OR "NOT CAUGHT" BY IR35?

The answer to this is rather complex and has evolved out of years of case law.

HMRC uses 3 core tests, as well as other factors such as financial risk, to establish whether the relationship between a worker and a hirer is one of employment, or a business to business transaction.

For a contract to be classified inside IR35, it must indicate an employed relationship in all 3 of these areas.

»» IR35 TESTS

MUTUALITY OF OBLIGATION

Is the client obliged to give work to the person and are they obliged to take it?

PERSONAL SERVICE

Is the person required to personally do the work, or can they send a substitute? This must be able to happen in reality as well as contractually.

CONTROL

Is it a master / servant relationship? Or is the person free to decide how to perform the work as they fit?

»» WHO DECIDES?

Up until 2017, it was always down to the individual limited company director to determine the IR35 status of their contracts.

In HMRC's view, only 10% were doing this compliantly and the treasury was missing out on unpaid taxes as a result.



»»» WHO DECIDES?

So in 2017, they changed how the rules were applied for public sector roles, making the end client responsible for determining IR35 status. This change will be extended to the private sector from April 2021. Broadly speaking, from that date rules will be broadly the same across the board.

FROM APRIL 2021 THE CLIENT DETERMINES IR35 STATUS

Your client will have to pass a "Status Determination Statement" down to your agency (or other party paying your limited company.) Whoever is paying you, will be responsible for deducting appropriate PAYE tax and National Insurance Contributions, if your contract is classed as inside, or caught, by IR35.

»»» HMRC CEST TOOL

CEST stands for Check Employment Status for Tax and is HMRC's tool to assist workers, clients and other stakeholders assess the IR35 status of a contract.

It uses a series of questions and at the end gives a determination of whether IR35 applies or not.

HMRC have said that use of CEST is not compulsory but it is also the only IR35 decision-making tool they will stand by, although other independent tools are available.

»»» NEXT STEPS

Your recruitment agency will be speaking to the client engaging your services. In some cases clients are making blanket decisions not to use limited company contractors at all.

Information is your best ally!

**CHECK YOUR
IR35 STATUS**



**KNOW YOUR
CLIENT'S
POSITION ON IR35**



**TALK TO
LIQUID FRIDAY**

Liquid Friday can help you fully understand how IR35 will affect the way you work and your pay options going forward. This may continue to be as a limited company, as an Umbrella employee or PAYE.

»»» WORKING THROUGH AN **UMBRELLA COMPANY**

Working through an Umbrella company puts you outside of scope of IR35.

You are an employee of the umbrella company so all of your tax, pension and NI contributions are deducted directly from your income and you are entitled to statutory employment benefits, such as sick pay and holiday pay.

The umbrella company acts as an intermediary with your agency or client and agrees an assignment rate (or charge-out rate) for your services. This rate includes all the costs of employing you (such as the holiday pay and employers costs) as well as their profit margin.



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WHY LIQUID FRIDAY

1

We've been supporting contractors for over 14 years, and pay thousands of them every week.

2

We are members of the FCSA - the main regulatory body for umbrella companies and contractor accountants.

3

Great service is at the heart of what we do, our friendly team will always go the extra mile to help you.

4

As an employee of Liquid Friday, you are fully insured under our comprehensive business policies.

5

Liquid Perks is our employee rewards program, offering discounts, rewards and freebies on hundreds of well known brands.

We would love to welcome you under our umbrella, so let's have a chat!

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