

## Are you ready for IR35?

Does your company employ contractors, or are you a contractor operating as a Limited Company? If so, IR35 may affect you.

In April 2020, the UK Government is introducing a new set of tax laws which will affect many businesses and contractors across the UK.

[IR35](#) is a word used to describe tax legislation that is designed to combat tax avoidance by workers, (and the firms hiring them), who are supplying their services to clients via an intermediary, such as a limited company, but who would be an employee if the intermediary was not used. The rules make sure that an individual who works like an employee, but through their own limited company, pays broadly the same income tax and NI as other employees.

Despite having been in force since April 2000, IR35 is heavily criticised by tax experts and the business community as being badly implemented by HMRC. This is why the Government is replacing the original IR35 legislation with [the new Off-Payroll Tax](#) (as explained by leading contractor website, Contractor Calculator) which was initially introduced into the public sector in April 2017. From April 2020, the new Off-Payroll tax rules will also apply in the private sector and be used to determine the IR35 status – or ‘deemed employment’ status - of limited company contractors.

### Who will be affected?

From April the liability for paying the correct tax and NI contributions - which up until now a worker themselves was responsible for in the private sector - will be transferred to the party that pays the worker/freelancer/contractor. Often, this will be a recruitment agency.

Large and medium organisations will become responsible for assessing the correct employment status of the contractors they engage to work with them. If it is determined that the Off-Payroll tax applies (aka within IR35), the organisation that pays the individual’s own limited company will be responsible for deducting and paying the associated employment taxes and National Insurance contributions to HMRC. There is an exemption for ‘small businesses’ as defined by the UK’s [Companies Act 2006](#) (one that does not have a turnover of more than £5.6 million, a balance sheet total of more than £3.26million and does not have more than 50 employees).

The changes apply to individuals supplying their services through an intermediary, such as their own limited company, and who would otherwise be employed if directly engaged in the private sector. According to Freelance UK [if you’re a sole trader, the IR35 legislation itself doesn’t impact you](#). That said, your client will still have to decide your employment status, which dictates whether you’re an employee, a sole trader, or a ‘worker’ which is somewhere in between the two. However, if you’re engaged by a company that HMRC deems to be ‘small,’ the reforms will not apply. In other words, a worker/freelancer/contractor will be able to continue setting their IR35 status when working with these ‘small’ businesses.

### As a freelancer how do I check my IR35 status before April?

Whether you work as a freelancer using a limited company or a contractor through an agency you must assess the working relationship you have with each of your clients. Under IR35, it is quite possible to fall inside IR35 for some clients and outside for others. This can mean your income, and how this is accounted for is slightly more complicated. Your accountant will be able to advise you further on your specific circumstances.

To assess your status HMRC have their own [Employment Status Manual](#) and [the CESTT \(Check Employment Status for Tax Tool\)](#). If results unclear, seek further advice. In many cases however, the size of your client’s business will largely govern how they determine your working status with them. (Note: If you are a sole trader working for a medium or large business it is worth checking your status as well).

### What can be done to prepare?

For companies, there is advice on the HMRC website on [how to get ready for the changes](#) if receiving services from a worker through their own intermediary.

For workers and freelancers, while limited company freelancers (unless working with 'small' companies) will lose the right to set their own status, they are not going to be powerless. From having a contract reviewed by an expert to discussing reforms with clients and obtaining a Confirmation of Arrangements (a document or letter signed with the agreement of your engager as to the true nature of your working relationship); there are a number of ways contractors and freelancers can look to safeguard their status.

Another simple alternative is to add the contractors to an agency's payroll such as that offered by [Talent Search](#). This ensures that the contractor pays the correct amount of PAYE and NI. This will increase the contractor's tax contribution but mitigates the risk of an IR35 investigation for the company.

[Get in touch](#) to discuss further.