

Are you ready for IR35 in the private sector?

IR35

6 APRIL 2021



What is it?

IR35 or off-payroll working is used to describe tax legislation that has been in place since 2000 to prevent tax avoidance by contractors who are supplying their services to clients via a limited company, but who would be an employee if the limited company was not used. Effectively HMRC classes these individuals as 'disguised employees'.

What is the current position?

Contractors who work through their own company save on tax and National Insurance Contributions (NIC) compared to individuals working as permanent employees. The amount of tax and NIC saved depends on the level of income, the amount of expenses, and how the profits are paid out, but can be significant.

What is the aim of the legislation?

The legislation ensures that contractors, who would have been an employee if they were providing their services directly to the client, pay broadly the same tax and NIC as employees. If the rules apply, tax and NIC must be deducted from contractor's fees and paid to HMRC.

What are the changes coming in to force on the 6th April 2021?

Until the 5th April 2021 the determination of the contractor's employment status for each contract in the private sector remains with contractors to decide.

From 6 April 2021 the determination of the contractor's employment status for each contract when working with medium and large-sized private sector businesses changes to the client.



[Click here](#) for more information from HMRC.

What is the impact?

Contractors that fail the **IR35 test** (see opposite) will have to pay tax and NIC which will mean that either the contractor will receive a lower net pay, or the terms will have to be re-negotiated.

▶ What to do next:

You should speak to whoever is responsible for your IR35 status determination at present, this could be your company's accountant, HR department, umbrella company or other responsible person.

If you would like further information or support please contact your Consultant or use the contact details below:

compliance@astutetechnical.co.uk +44 (0) 2392 221 600

We will be providing more information over the coming weeks. Keep looking.

KNOWLEDGE IS POWER

The IR35 test

You can use HMRC's online tool **CEST** (Check Employment Status for Tax) using the link below.



[Click here](#) for CEST tool.

Key elements of the test include:

Control

who is in control of what, when, where and how the work is done?

Right of substitution

can the contractor substitute who provides their services?

Mutuality of obligation

does the client have an obligation to offer work and does the contractor have to accept?

Financial risk

does the contractor face financial risk? e.g. for late delivery, quality issues?

Distinction

can the contractor be identified as independent from the client's employees?

HMRC have indicated that an IR35 compliant contract that does not reflect the reality of the relationship will be cast aside and **employment status will ultimately be determined by the actual working relationship between the contractor and client.**

▲ STUTE

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