

JULY 2019

IR35 & 'OFF PAYROLL'

UPDATES ON
CONTRACTING IN THE UK

MORGAN
McKINLEY



— GO BEYOND —

01



WHAT ARE THE CHANGES?

If the proposed introduction of 'off-payroll' to the private sector comes into force in April 2020 there will be changes in the way that Contractors, operating via Personal Service Companies (PSC), more commonly known as Ltd companies, will be paid.

This relates to the tax legislation IR35, introduced in April 2000 by HMRC in an attempt to combat tax avoidance by workers supplying their services to clients via an intermediary, such as a PSC, but who would be an employee if the intermediary was not used.

Currently in the private sector it is the responsibility of the contractor to determine if their roles sits outside IR35 or inside IR35 in which case they would be deemed to be a 'disguised employee' and subject to tax and NI contributions.

The proposed changes mean that from April 2020 it will become the responsibility of companies in the private sector to assess the employment status of contractors they engage, either directly or via a 3rd party. The exception to this will be for any company classified as a small organisation, the definition as per the Companies Act 2006 is: Net turnover less than £10.2m; Balance sheet totalling less than £5.1m; Less than 50 employees

Businesses will be legally required to ensure that contractors operating via a PSC pay the correct taxes, otherwise they become liable themselves for any unpaid tax. The responsibility for paying the tax and NI will transfer to become the responsibility of the 'fee payer'.

02

This means that businesses will need to apply complex employment status tests to decide whether a contractor is genuinely self-employed or not. The tool recommended by HMRC is:

HMRC'S CHECKING EMPLOYMENT STATUS TOOL (CEST)

Contact details:

<https://www.gov.uk/government/organisations/hm-revenue-customs/contact/ir35-enquiries>

Telephone: 0300 123 2326

Opening times:

Monday to Friday: 8:30am to 4:30pm

HMRC GUIDANCE ON IR35

<https://www.gov.uk/guidance/ir35-find-out-if-it-applies>

03

TIMEFRAMES

There was a consultation with the private sector which concluded on May 29th 2019. We have been advised the draft legislation will be out on 11th July 2019 and then if it follows the normal course of events it would be announced in the Autumn Statement 2019 for introduction in April 2020. At this stage we believe it to be unlikely there will be any further delays or extensions on the deadline.

KEY POINTS

- HMRC are passing the responsibility of determination, and in addition the liability to claim any unpaid tax, up the supply chain to end clients and intermediaries.
- End clients will have to take 'reasonable care' in assessing every role to determine if the role sits 'inside' or 'outside' IR35. This will take time and additional resources (the exception are clients who are deemed to be small companies i.e. less than 50 employees and as defined by The Companies Act)
- Contractors found to be 'inside' IR35 will be subject to additional tax and NI.

04

SPEAK TO US

There will be inevitable changes in the way some contractors are engaged and remunerated but contracting will continue to offer the benefits it always has, in terms of flexibility, variety of experience and in the majority of cases premium rates versus permanent salaries. Morgan McKinley will continue to support our contractors and clients through the transition.

If you have any questions please contact us at ir35@morganmckinley.com or contact Victoria Walmsley, Managing Director at vwalmsley@morganmckinley.com

