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UNDERSTANDING IR35 – The impact on temporary recruitment

A message from Robert Half

At Robert Half, we understand the important part contractors have to play within the wider UK workforce.

For businesses looking to adapt and change at pace, bringing in specialist skills on a short-term basis can help to augment teams and deliver business performance.

For contractors, there is the flexibility to find assignments that offer fulfillment, challenge and competitive remuneration.

We have prepared this guide to help provide clarification on how the IR35 changes will affect the clients and contractors working with Robert Half, the pay options we can offer and how current assignments may be affected.



Matt Weston

UK Managing Director at Robert Half

What is IR35?

The 'off-payroll working rules' (more commonly known as IR35) were introduced to address perceived tax avoidance. This legislation aims to ensure that contractors who work through an intermediary such as a personal services company (PSC), but work like employees, pay broadly the same taxes as employees.

In 2017, changes to IR35 were introduced for the public sector, which made the public sector organisations responsible for deciding whether the worker would have been regarded as an employee for tax purposes if they were engaged directly.

As of 6 April 2021, the existing off payroll working rules will be brought into line with the public sector such that medium and large organisations in the private sector will be responsible for assessing the employment status of the contractors they engage. [Small companies](#) are exempt, as defined by the Companies Act 2006.

For group companies, the small company test is applied to the parent company and not any subsidiaries. This means that even if services are provided to a subsidiary company, if the parent company is as a medium or large organisation, its subsidiaries will have to apply the new IR35 rules.



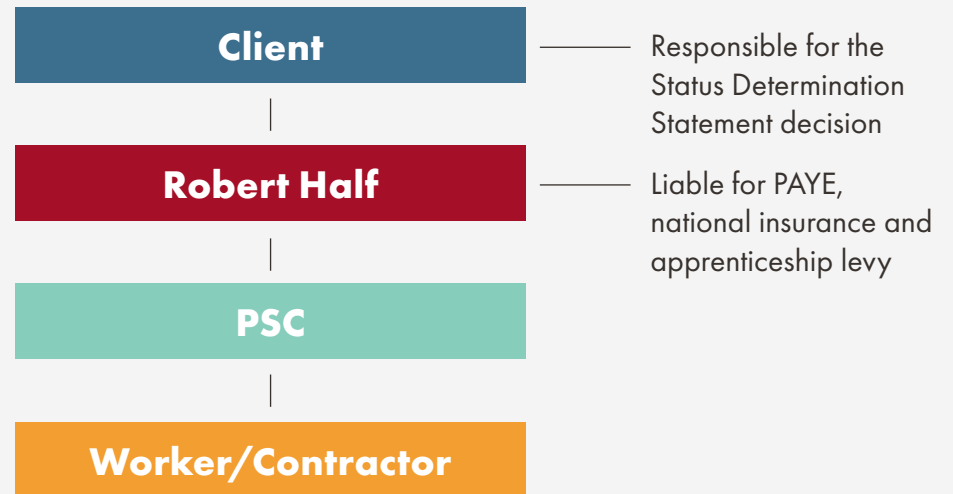
What's changing from 6 April 2021?

Currently, contractors operating through a PSC in the private sector are responsible for assessing their own employment or IR35 status but from 6 April 2021, the assessment of employment status will be the responsibility of the client.

The client will be required to:

- Document their assessment of employment status in a Status Determination Statement (SDS).
- Pass the SDS (including the reasons for the determination) to the contractor and to Robert Half.
- Implement a process to deal with any status determination disputes, in the event a contractor disagrees with the decision.

The diagram below illustrates who would be responsible for determining the employment status of a contractor supplied via Robert Half:



Impact on contractors classified as “inside” IR35

If a contractor is determined as “inside” IR35, the contractor will be regarded as an employee for tax purposes. As such, the contractor will have employment tax and National Insurance payments deducted directly from their payments.

Payment options available to contractors:

1. Pay as You Earn (PAYE)

- Weekly payroll following submission of an approved timesheet.
- Appropriate Tax and National Insurance deductions made prior to payment into the contractor’s personal bank account.
- Holiday accrued at 12.07% of pay rate accrued against hours worked which can be claimed throughout the assignment or accumulated and claimed in bulk at the end.
- NEST Government Pension Employer contribution.
- Access to sick pay, maternity/paternity pay.

2. Limited Company Deduct at Source

- Weekly payroll following submission of an approved timesheet.
- Appropriate Tax and National Insurance deductions made at source prior to payment into the contractor’s Limited Company bank account.

3. Umbrella company

- Weekly payroll following submission of an approved timesheet.
- Gross payment made to the umbrella company bank account.
- Umbrella company would be given a copy of the SDS and will be responsible for making the appropriate employment tax and National Insurance deductions prior to payment.

“ To support our contractors as much as we can we have created a list of approved umbrella companies who offer competitive benefits for their services.”

Matt Weston, Managing Director, Robert Half UK

Impact on contractors classified as “outside” IR35

If a contractor is determined as “outside” IR35, all payments would be made gross and the contractor will remain responsible for accounting to HMRC for all taxes and NI.

Payment options available to contractors:

1. Direct engagement with PSC

- Once evidence of Professional Indemnity Liability insurance has been provided, payments will be made direct to PSC.

2. Umbrella company

- Weekly payroll following submission of an approved timesheet.
- Gross payment made to the umbrella company bank account.
- Umbrella company would be given a copy of the SDS and will be responsible for making the appropriate tax and National Insurance deductions before paying the contractor.



Tips for clients to do before April 2021:

1

Ensure you are aware of the change in law

Review the HMRC guidance for private sector off-payroll working for clients to gain a deeper understanding of the requirements.

2

Complete a workforce audit

A workforce audit will help to determine the reliance upon workers providing services via an intermediary.

3

Gather the information needed for the SDS

Consider how the information required to make a status determination statement is collected.

4

Create a clear process

Establish a process for making a status determination statement and for providing these to the relevant parties.

5

Establish a disputes process

Prepare a status determination dispute process that will comply with the specific requirements.

While the proposed changes are significant, they may be subject to change before April 2021. While we cannot provide a list of definitive actions, it would be beneficial to get prepared and address these areas.



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Tips for contractors when searching for an assignment:

1

Ensure you are aware of the change in law

Review the HMRC's detailed guidance for [private sector off-payroll working for intermediaries](#).

2

Request an SDS from the client for every assignment

If you are on an assignment that continues after 6 April 2021, be prepared to request the SDS to ensure you have the correct employment statement for tax purposes.

3

Don't assume the IR35 status based on previous assignments

Previously working for a client, such as [Protiviti](#) (Robert Half's sister company which provides risk management and consultancy services), does not guarantee your employment status will be assessed as "outside" IR35.

4

Only considering assignments that are deemed "outside" IR35 may limit your opportunities

For some clients, the change in legislation places a substantial administrative burden and risk of tax liability on them. As such, they may decide to not engage Limited Company contractors at all from 6 April 2021.



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