

S|S|Q

CHANGES TO THE OFF-PAYROLL WORKING RULES

IR35 - IT DOES AFFECT YOU

JANUARY 2020

INFORMATION FOR CANDIDATES WORKING THROUGH PSC

The way in which we structure the arrangements between you, us and the organisation you provide your services to may need to change in preparation for 6 April 2020 when the new IR35 rules are due to come into force.

The government wants to make sure that two people working in the same way pay the same income tax and National Insurance contributions, even if one of them works through a company.

The changes will affect anyone who works for medium or large-sized private sector clients through their own personal service company and are broadly the same rules that have applied to people working for public sector organisations since 2017. The original legislation, IR35, remains the same, but under the new proposals its reach would be extended. These changes have been confirmed by the new government, despite the review they have announced, and we expect and are preparing for these changes to start on 6 April 2020. From that date, HMRC will ask for your tax status in any particular role to be decided by the end-client to whom you provide your services. They will have to make a status determination statement (SDS) about your individual position and declare whether you should be classed as employed or self-employed for tax purposes. To make this SDS they will carry out an IR35 assessment and provide reasons for their decision. SSQ is not involved in this process which cannot be delegated. The SDS is a new requirement – this is a difference from the existing public sector IR35 rules. There is a right to challenge a determination if you believe it is wrong and the end client has to respond to your challenge within 45 days. It is not yet clear exactly how this will work in practice but clients will be required to have a process in place for dealing with disagreements about status.

Umbrella companies

You may have heard that some businesses, including law firms, are making the decision not to engage people working through PSCs and are either taking people onto their payroll or requiring them to work via an 'umbrella' company. We believe that some of our contractors will be deemed to fall inside IR35 and will need to work through an FCSA accredited umbrella company. In this case, the umbrella company becomes your employer and will pay you a salary having deducted tax and both employer/employee National Insurance contributions and any other applicable sums such as apprenticeship levy. This means that you may end up taking home less net income and you will need

to consider the impact of this in advance of the changes. Also, although you may be considered an employee for tax purposes, it does not automatically follow that this will be the case under employment law. The tests are slightly different.

If the end-client decides that your IR35 status is off-payroll (ie you are a genuine independent contractor) you may still be able to continue working through your PSC. Whether this is the case or not will depend on the circumstances of the role in question.

If you are engaged on contract which starts before 6 April 2020 but is likely to continue beyond that date, the end client may well issue you with your SDS ahead of that date.

We would encourage you to speak to your accountant as soon as possible and use the HMRC Check Employment Status for Tax (CEST) online service to help check your employment status for tax purposes.

Although this check needs to be done by the client, it may give you an idea of the likely result. HMRC say that if CEST is completed with accurate information, they will abide by its results. However, even though it has recently been revamped, concerns remain about its accuracy.

[Click here for CEST.](#)

Contact us

Please talk to us about any concerns you have and although we can't offer you specific advice regarding employment status determinations, we will be delighted to share our expertise with you.

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