

S|S|Q

CHANGES TO THE OFF-PAYROLL WORKING RULES

IR35 - IT'S TIME TO GET ORGANISED

JANUARY 2020

If you are a medium or large organisation engaging anyone to work for you through their own personal service company (PSC), changes to off-payroll working rules (IR35) will affect you.

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 are due to come into force on 6 April 2020. From that date you will be responsible for assessing the IR35 employment status of anyone who works for you through a PSC and issuing them with a status determination statement (SDS). You will need to produce a comprehensive statement declaring their deemed employment status and give reasons for your decision; this may mean taking independent advice from a lawyer, accountant or employment expert. You must do this for each person/role individually and you cannot delegate this responsibility to anyone else. You must give the SDS to the individual and to us. We are then required to deduct PAYE, NI and other relevant taxes such as apprenticeship levy from any payment to the individual's PSC.

If an SDS is made without reasonable care, for example by making blanket or role-based assessments, the burden of paying the person's PAYE and national insurance etc could shift to you.

CEST

HMRC has developed a Check Employment Status for Tax (CEST) online service to help organisations determine whether the rules apply to them and has promised publication of detailed guidance. They say that if this is completed using 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.](#)

Umbrella companies

Where an SDS establishes that a person is working in a way that should be inside IR35, we will suggest that the person should change from working through their own PSC to working for an 'umbrella' company, who will pay them as an employee, deducting tax and employee/employer National Insurance (NI), before paying them. We will require such umbrella company to be HMRC compliant and FCSA accredited.

In some instances the cost of engaging freelance lawyers and paralegals may increase, as people may need to raise their daily or hourly rates to compensate, at least in part, for the impact of tax and NI being deducted at source. The umbrella company will have the additional responsibility of paying the employer's NI, out of the rate you pay. The individual will lose the ability to take some or all of the PSC profits as dividend so will be worse off.

The Act has not yet passed into law but despite announcing its review, the new government has confirmed that these changes are going ahead effective from 6 April 2020.

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. If you have anyone currently engaged via a PSC on a contract which might run past 6 April 2020 we would encourage you to deliver a status determination statement as soon as possible so that everything is in order under the new IR35 regime when it comes into force.

Contact us

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