

# IR35 UPDATE

We're sure you will be aware of the changes to increase compliance with the existing off-payroll working rules (often known as IR35) coming into force in April 2020, but are you truly confident in how it affects you, if at all?

## **What is IR35?**

IR35 is a piece of legislation designed to tackle tax avoidance from 'disguised employment' – where self-employed contractors set up limited companies to pay themselves through dividends, which are not subject to National Insurance.

From April 2020 private sector firms will have to check whether contractors need to pay income tax and national insurance contributions, shifting the responsibility for conducting such checks from the contractor to the organisation using their services.

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## **How does it affect you?**

Historically, contractors that provide their services through a Personal Service Company (PSC) have determined if they fell within or outside of the IR35 guidelines.

Now, the new IR35 rules, place the responsibility for categorising contractors' tax status – and deducting tax for those who are not deemed self-employed – on the company hiring, but not if you are a small company. Where the end-user is a small company, the PSC will continue to be responsible for assessing whether IR35 applies. The Companies Act 2006 defines a small business as a business with two or more of the following features:

- Turnover of £10.2m or less
- A balance sheet total of £5.1m or less
- 50 employees or fewer

There will be a requirement for you to pass the IR35 status down the supply chain, with each party passing the decision down until it reaches the fee payer.

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## **What are your next steps?**

Firstly, you need to determine the status of the PSC contractors you currently employ. You must also identify who within your organisation should make the status decisions and ensure that those individuals understand how to assess status. Assistance is available to aid with this task which includes:

- Employ some employment status experts
- Use CEST and/or improve your existing assessment tool - we are currently exploring the market place to see what is available
- Get an opinion from a firm of experts
- Consider insurance
- Involve whole supply chain
- Enrol onto a seminar provider by an FCSA accredited umbrella provider (feel free to contact us for details)

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Taking a blanket view that all contractors should be paid under PAYE is not the correct solution. We are aware that some organisations are proposing this but we're confident it will only have the adverse effect given that some contractors are genuinely self-employed and should therefore be paid as such. By forcing these contractors onto a PAYE pay structure, you could lose a valuable part of your workforce if these contractors were to seek work elsewhere.

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## **Why you are protected when working with McGinley Group**

We are confident in our internal, robust procedures, thus making the preparation for the IR35 changes easier for our clients to work through as the majority of the workforce provided will have already been assessed correctly.

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## **Our current IR35 procedure:**

- Provision of IR35 compliant contracts whilst also assessing CIS status, if applicable
  - We request the right documents to ensure false self employment is not present, including:
    - Certificate of Incorporation
    - Proof of insurance
    - Proof of a business account
  - All PSC company payments are reviewed by the payroll department to ensure full compliance before being sent
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**We are on hand to support our clients through this process should you require it, however, please bear in mind we cannot offer any tax advice.**

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Each of our companies has a unique offering, from recruitment to project based solutions, and are recognised as some of the fastest growing businesses in the UK (Virgin Fast Track 100 Company) and 'Best Company to Work For' by the Sunday Times.



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