

NOVEMBER 2020

Extension of the Off-Payroll Rules

into the Private Sector

Small Companies Exemption

The Off-payroll rules will not apply where the end user client is a small company, as defined in the Companies Act 2006.

A small company is one, which meets two or more of the following criteria:

- a) Annual turnover of not more than £10.2m
- b) Balance sheet total of not more than £5.1m or
- c) No more than 50 employees

Group companies will not be exempt if the parent company of the Group is not a small company. Similarly, in a joint venture, if any of the joint venture partners are not small then the whole joint venture is not small.

The Off-payroll rules will also apply to end user clients, which are unincorporated but have a turnover of more than £10.2m. Where organisations are exempt, the existing rules (where the intermediary is responsible for applying the rules) will continue to apply.

Importantly, a company relying on the small company exemption is not required to proactively tell their agency suppliers that they are small and therefore exempt.

A company, which is not exempt but fails to give a status determination statement (SDS) will be the fee payer until such time as it gives the SDS. For more information on providing an SDS, see our SDS fact sheet.

What if a company changes in status?

When a client company ceases to be small the client will be brought into the scope of the rules from the start of the tax year following the filing date at which it ceases to qualify as small under the Companies Act 2006 test.....small companies will become medium or large if they exceed the test for two consecutive years. The requirement to be small for two consecutive years also applies to companies transitioning from medium to small.'

If a medium or large business, which was previously not exempt, becomes a small company and therefore becomes exempt, it must give a statement to the relevant person, e.g the Agency that:

- a) It is no longer a medium or large business and
- b) That the SDS is withdrawn with effect from the beginning of the tax year.

In such a case, the engagement will revert to the original IR35 rules where the intermediary is responsible for its own status decision and deductions. If a client fails to comply with this obligation then it becomes the fee payer for the tax year.

What if a company changes in status?

Whilst a company relying on the small companies exemption is not required to proactively tell their agency suppliers that they are small and therefore exempt, to ensure that Staffing 360 Solutions are clear on the Hirer's company size and therefore meet our own obligations in respect of Fee Paying duties, we request all Clients to provide written confirmation to us.

What should the statement say?

The statement should confirm the two small companies' criteria that your Company meets.

Please see the attached example Statement, which we would encourage you to return to us as soon as possible and certainly prior to 1st April 2021.

Who can help me with further guidance on this note?

The Rules for off-payroll working from 6th April 2021 can be found here: <https://www.gov.uk/government/publications/rules-for-off-payroll-working-from-april-2020>

For a copy of our Hirer's Guide to the off-payroll rules, please email Staffing 360 Solutions Compliance and Operations Senior VP, Allison Drake - Allison.drake@staffing360solutions.com who will also be happy to support you with any further queries.

Small Companies Exemption

The Off-payroll rules will not apply where the end user client is a small company, as defined in the Companies Act 2006.

I confirm the following:

Company Name:

Completed By:

Job Title:

Date:

Our Company meets two of the following criteria:

Annual turnover of not more than £10.2m



Balance sheet total of not more than £5.1m or



No more than 50 employees



Further, I understand that should our company cease to be small, we will notify the Agency. I understand that we will be brought into the scope of the rules from the start of the tax year following the filing date at which we cease to qualify as small under the Companies Act 2006 test.