



Sellick Partnership
Recruitment Specialists

Sellick Partnership

IR35 in the private sector — FAQs



If I currently work outside IR35, but have an assignment that continues past Monday 5 April 2021 and has been determined as inside IR35 by the end client, what will happen?

The IR35 reform in April 2021 does not introduce new tax or IR35 status tests, it simply moves all responsibilities for assessing IR35 status away from the contractor — this includes deducting PAYE and NICs. Therefore pre-April 2021, if you provide services into the private sector, you are responsible for determining your own IR35 status. From Tuesday 6 April 2021 this responsibility will move the end client and the agency (as the fee payer) will not allow you to use your limited company for work completed after that date, you will need to switch to a fully PAYE umbrella. If you know or suspect that your role always fell inside the scope of IR35, you should speak to your accountant to consider making a back payment of taxes.

I am currently being paid via an Umbrella company, do I have to close down my limited company if my contract falls inside IR35?

You do have the choice between keeping your limited company running or closing it down. If you are likely to have a future contract/assignment which will be paid via your limited company then you might decide to keep it open. However, if you think it is unlikely you will, then it might be more beneficial for you to close it down. Many of our PSL umbrellas are offering deals to run both the umbrella and limited company payment models for you, so please speak with them to get further advice.

What's the difference between PAYE and Umbrella?

PAYE generally refers to a contractor being paid directly by the agency on its payroll on a contract for services. If you choose to go through an Umbrella company, the contractor is fully employed and paid by the Umbrella Company. Both options will deduct employed levels of tax and NI. Here is a link to our umbrella PSL: <https://www.sellickpartnership.co.uk/candidates/advice-for-contractors/umbrella-companies>

Will my take home pay be affected if I am inside IR35?

If you fall inside IR35 you will typically find your take home pay being reduced by around 15% to 20%. This is due to the requirement to pay employment taxes to HMRC, i.e. PAYE and NICs, as well as not being able to claim tax relief on expenses.

If a client says I am inside IR35, can I challenge this?

The client is obliged to take reasonable care in determining whether your assignment falls inside the scope of IR35. It must issue you and your agency with a Status Determination Statement (“SDS”) as well as reasons for that determination. If you disagree with the SDS you can notify the client. The client then has 45 days to respond, either by issuing you with a new SDS, or by confirming that its original conclusion was correct (with reasons).

Is it possible to get insurance against the risk of IR35?

There are insurance policies available on the market offering protection against IR35 enquiries and tax loss. If you are a contractor that provides services to clients that qualify as medium or large, then the key responsibilities and risk under IR35 post April 2021 fall on the client and fee payer.

Can I still claim for the same expenses?

A PSC can claim tax relief on any expense which is incurred wholly and exclusively for the purposes of the trade. This normally includes things like travel and subsistence costs incurred by the director,



any work-related equipment such as computers, machinery or tools, relevant trade and professional subscriptions and the costs of any work-related training. Your IR35 status will impact and likely limit your ability to claim certain expenses. If you choose to work with an Umbrella company, you should discuss with your Umbrella what you can and can't claim.

Does a client have the right to reject a substitute?

This is a really important part of determining the IR35 status of your role. If your end client will allow you to send a substitute to perform your work when you are not able then this will count in favour for your role being outside IR35, other factors will also be considered. It would be worth discussing this with your end client to help them understand that you would only provide a substitute with comparable qualifications and experience as yourself. In this situation the end client can waive their right to reject a substitute.

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