











**optimum**  
pay group

● **IR35 GUIDE:** Contractors

# CONTENTS

-  What does it mean?
-  An example
-  How does it work?
-  Are there any exemptions?
-  How can we help?
-  Your questions answered
-  Jargon buster
-  Your next steps



# IR35: What does it mean?

Simply put, IR35 describes two pieces of legislation that are designed to differentiate between self-employed workers who own their own business and (deemed) employees of the client.

IR35 seeks to prevent tax avoidance, as those supplying services through an intermediary, such as their own business, should broadly pay the same tax and NICs as employees working directly for a client.

## Employed or self employed?

This depends on the facts of each assignment. IR35 takes in a number of factors to determine your employment status, including:



### Control

The number of hours worked, work, notice period, supervision and more.



### Substitution

How easily workers can be replaced?



### Mutuality of Obligations

If there's an obligation to take on new projects.

## IR35: An example

### **Kate would be considered self-employed for this contract**

Kate is taken on by a pharmaceutical company (end client) to design and build an app. Kate and the client agree a price, timeline and scope for the project. Kate will work from home, using her own equipment to complete the task. Kate is free to work with other clients but faces a contractual penalty if work isn't delivered on time, to the agreed standard.



### **Dave would be considered an employee for this contract**

The pharmaceutical company hires Dave to maintain the app. He works at a firm twice a week, eight hours a day. They give him a laptop he can use in the office, or at home with permission. The company pays for all of the software used by Dave. Dave reports to the marketing team and must follow company guidelines and procedures. Dave is paid for any overtime required and can also work elsewhere on days he is not working.



Looking at these two examples, you can easily see the difference in Control, Substitution and Mutuality of Obligations. Whereas Kate is free to complete the project without supervision and in her own time as long as she meets the agreed deadline, Dave has to abide by set working hours by the same company.



## IR35: How does it work?

From the 6th April 2021, medium and large Private Sector end clients will decide if you are deemed to be an employee of the client or self-employed (Limited Company) for your assignment.

This decision is then passed onto the Fee-payer (usually the organisation paying you). If you're found to be inside IR35 guidelines, you will need to be paid as an employee of the client. If you decide that you want to continue being paid through your Limited Company, the Fee-payer will need to deduct NIC's to HMRC and pay the Income Tax from source (gross amount). These payments are reported via a Real Time Information (RTI) report to HMRC.

**Large and medium clients decide if the contractor is self-employed or an employee.**

**This information is passed to the Fee-payer (responsible for any payments), who then notifies the contractor.**

**The Fee-payer pays the employee or Limited Company, making the necessary tax deductions.**

## Who is liable for unpaid tax?

### Pre 6th April 2021

As a contractor, you're completely responsible for determining your employment status and correct level of tax. This means you're liable for any unpaid tax.

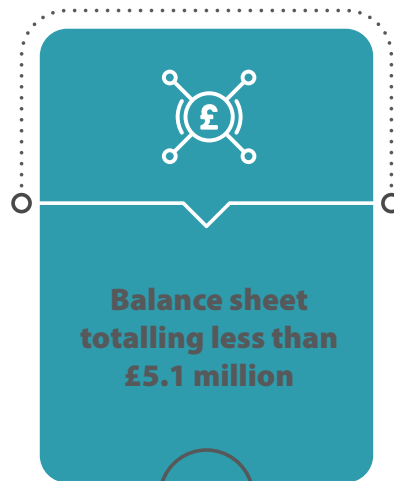
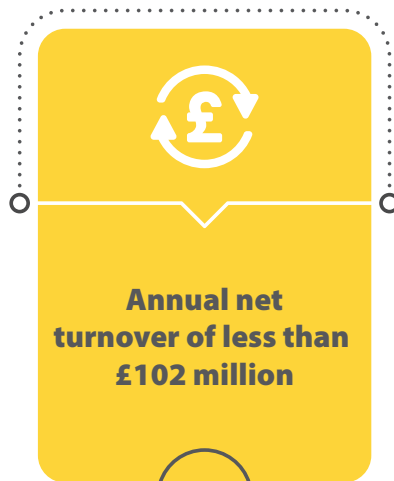
### Post 6th April 2021

Responsibility sits equally between the yourself and the client. The client communicates your employment status to the Fee-payer, who then communicates it to you. However, if your agency (the Fee-payer) continues to pay you via your Limited Company and you're deemed inside IR35 (and therefore an employee of the client), they will also be liable for any unpaid tax. This can be collected from both yourself and the Fee-payer.



# IR35: Are there any exemptions?

According to the Companies Act, smaller organisations (end clients) will not be liable for any unpaid tax. Smaller organisations are defined as:



**HOWEVER**, if the end client is a small organisation but not a Limited Company, and therefore an unincorporated entity, then the IR35 rules will still apply.



# IR35: Your questions answered

## Why use Umbrella Payroll?

You will become an employee of Optimum Pay for the duration of your contract. We take responsibility for all your invoicing and cash collection, along with managing your personal tax reporting directly to HMRC and ensuring you are fully compliant with HMRC's ruling.

Whilst they are fully employed via Optimum Pay Group, they will receive full employment rights and benefits such as:



### No Hidden Charges

From day one, we're open and honest about our low weekly margins, which cover the admin cost.



### Customer Care

We're always there to help you, from the start to the end of your assignment.



### Flexible Payment

We process our payroll daily. This allows for more flexibility when it comes to payments.



### Portable Payroll

Use our services at your next assignment for continuous employment and better mortgage prospects.



### Peace of Mind

We process our payments quickly and insure them up to 17 million through Hiscox.



### Statutory Pay

We've got you covered! Receive full statutory payments including, Sick pay, Maternity/Paternity pay and Holiday pay.



### Remus Rewards

We're making it easy for contractors to get what they want, when they want it. Remus Rewards lets them choose from over 2,500 products and experiences

# IR35: Your questions answered

## ○ **What happened on 6th April 2021?**

The responsibility of determining whether your contractor's employment status will fall to the end client. In addition, the Fee-payer (usually the organisation paying into the Limited Company) will need to make correct deductions of NICS and income Tax to HMRC.

## ○ **How will this affect me?**

As the agency, you're responsible for deducting Income Tax and National Insurance from any amounts payable into your contractor's Limited Company and paying it to HMRC. Where HMRC does not receive the tax due, the government proposes to pass the liability onto the party who have failed to enforce the new ruling. For example: if the end client deems your contractor inside IR35 (and therefore an employee) and your agency continues to pay into their Limited Company without the necessary deductions, the liability will fall onto you. Additionally, if you fail to inform your contractor of their employment status, as determined by the end client, your agency would be liable for any income tax and NICS due.

## ○ **Can I still use my Limited Company if I am within IR35?**

If you are deemed to be inside of IR35 (and an employee of your client), you can still be paid via your Limited Company. However, it is up to the Fee-payer (usually an agency) to deduct the necessary NIC'S and Income Tax before paying the net into your Limited Company. If you are deemed outside IR35, you may continue to operate through your company, but your employment status can be reinvestigated at any time.

## ○ **Can I still use my Limited Company?**

This is dependent on your end client and agency. If they are willing to pay you with, having taken into account the deductions needed, you should be able to operate through your Limited Company. However, if they do not take this responsibility on, they will either propose PAYE in house or pay you through an Umbrella Company.



# IR35: Your questions answered



## **I don't want to go through Umbrella?**

The end client will conduct tests to determine your employment status and the final decision is up to them. You can of course choose whether to be paid by PAYE or Umbrella PAY, and there's always the option look for work elsewhere.



## **Can my client put a blanket approach to everyone on site?**

Absolutely. It can be difficult for end clients to make an accurate determination of a contractors IR35 status, as the complex rulings rely on in-depth knowledge of case law, individual contracts and working practices. Therefore, in cases of doubt a blanket approach may be applied.



## **I have just signed my Limited Company on a 6 months contract, do I need to be worried after April?**

Not necessarily! If you are deemed inside IR35, you can still operate through your Limited Company, but the Fee-pay will most likely pay you a net payment amount after the correct NICs and Income Tax have been deducted, as opposed to the gross amount.



## **I have done an IR35 test and fall outside of it, will I be affected by this?**

Your employment status is now defined by the end client. If you are suspected to be inside IR35 when you have claimed to be outside IR35, you must be prepared to be investigated by HMRC. Most likely the end client will issue an IR35 test to your contractors employment status and the contracts will be reviewed.



## **What is an Umbrella Company?**

Umbrella Companies are outsourced employment payroll, we take away all the admin burden and responsibility that comes with payroll, whilst ensuring that we keep you fully compliant with HMRC regulations. You'll be treated as a full-fledged employee, giving you all of the same rights, including such as statutory, pension contributions and insurances for your temporary assignments. We'll also take care of your Tax's and National Insurances.

# IR35: Your questions answered

## ○ **My accountant hasn't told me about any changes!**

The majority of accountants will be aware of the changes. However, your agency will have more information about your employment status, as your accountancy will no longer have any say.

## ○ **Will my hourly/daily rate be affected by the changes on 6th April 2021?**

Yes - being paid by your Limited Company would only pay for your Income Tax and National Insurance. If you're now being paid PAYE or Umbrella, you'll now also be contributing to the Employers National Insurance and have holiday pay paid each hour you work. Unfortunately, this means you may see less take home pay as your Limited Company pay is usually inclusive of these uplifts.

**For more information about how our services work or to see the benefits of working with us contact us on:**



[salesuk@optimumpaygroup.com](mailto:salesuk@optimumpaygroup.com)



[www.optimumpaygroup.com](http://www.optimumpaygroup.com)



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# IR35: Jargon Buster

- **Private Sector** - The private sector is the part of the economy, sometimes referred to as the citizen sector, which is owned by private individuals or groups.
- **Apprenticeship Levy** - This is paid by employers with annual pay bills in excess of £3 million. In this context, the pay bill is defined as the earnings liable to class 1 secondary National Insurance contributions.
- **Employer NIC** - Employers pay National Insurance contributions on their employees' earnings and benefits.
- **NIC's** - National Insurance Contributions.
- **Limited Company** - A limited company is an organisation that is set up to run an individual business.
- **Fee-payer** - The party next to the Limited Company, usually an agency.
- **HMRC** - Her Majesty's Revenue and Customs.
- **Regulations** - A rule or directive made and maintained by an authority.
- **PSC** - Personal Service Company.
- **Contractor** - A person or business which performs services for another person or entity under a contract between them, with the terms spelled out such as duties, pay, the amount and type of work and other matters.
- **RTI/Real Time Information** - is an improved way of reporting, designed to make PAYE submissions more efficient. This means you'll need to submit information to HMRC in real time, every time you pay employees.
- **In-house** - Something that is done or existing within an organisation.
- **Turnover** - The amount of money taken by a business in a particular period.
- **Balance Sheet** - A statement of the assets, liabilities, and capital of a business or other organization at a particular point in time, detailing the balance of income and expenditure over the preceding period.
- **Unincorporated** - A company or organisation not formed into a legal corporation.

# Your Next Steps

Our promise to you is to ensure that we offer you and your candidates the best customer service and advice when it comes to their wages and compliancy.

If you need further assistance, or are looking for advice, please don't hesitate to contact our dedicated sales team on their dedicated email:

**[salesuk@optimumpaygroup.com](mailto:salesuk@optimumpaygroup.com)**

We pride ourselves on our excellent customer service and are always happy to help you out.



For more information about how our services work or to see the benefits of working with us contact us on:



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