

# your guide to

# the IR35 changes in the private sector

## what is IR35?

IR35 is the common name given to the intermediaries legislation. That is the legislation governing the tax status of individuals who provide their services through an intermediary such as a limited company (commonly known as a **personal services company** or a '**PSC**').

## how does IR35 work?

IR35 applies where the intermediary is not deducting PAYE income tax or national insurance contributions from the payments to the individual. IR35 asks the question, "would the individual be an employee of the end user if the intermediary was removed from the contract?". If the answer is yes, the intermediary company is obliged to make a deemed payment calculation which has the effect of treating the income as employment income.

## what is changing in April 2020?

New legislation being introduced is changing how IR35 applies in the private sector. The most significant change being the shift of responsibility to clients (end users) to determine the tax status of PSCs' engagements. This means that clients will now determine if PSCs are in scope or out of scope of IR35, and they will do this by issuing a **status determination statement or SDS**. If they don't do it or if they get it wrong, they may be liable for unpaid taxes owed by the PSCs.

## why is it this happening?

Similar changes have already been implemented in the public sector in 2017. HMRC have considered them a success and have established three primary objectives for changing the legislation in the private sector:

- provide a better framework for assessing employment status;
- ensure that two individuals doing the same job are paying the same levels of tax;
- adapt to a rapidly evolving flexible labour market and emerging business models.

## who is affected?

The legislation applies only to clients which are **medium or large businesses**. There's an exemption for clients who are **small businesses** which means meeting two or more of the following criteria (if not part of a **larger group**):

- Annual turnover is no more than £10.2 million
- Balance sheet total is no more than £5.1 million
- No more than 50 employees.

Where the client meets two or more of these criteria, responsibility for determining the IR35 status of an engagement remains with the PSC and the changes do not apply.

## what to do next?

If you have been selected as a potential candidate and will be supplying your services as a PSC (provided that the client allows PSC engagements), Randstad will be in contact with the client to get their 'status determination statement' in relation to your potential assignment. We will communicate this to you as soon as we receive a response from the client.

## what if my assignment is in scope of IR35?

If your assignment is deemed to be in scope of IR35, Randstad will offer you the following options:

- to be payrolled by Randstad under a contract for services on a PAYE basis (not via your limited company);
- to be payrolled by Randstad via your limited company but with income tax and national insurance deducted at source by Randstad;
- to engage with an umbrella company that forms part of our own PSL (please see further details below).

**what if my assignment is out of scope of IR35?**

If your assignment is deemed to be outside the scope of IR35 by the client, we will pay you gross of income tax and national insurance and your PSC will be responsible for making the right tax and national insurance payments according to your own company's arrangements.

**what happens if I don't agree with the status determination statement given by the client?**

You have the right to challenge the client's decision. Should you wish to do so, we would invite you to provide reasonable grounds, for example, by providing your own status determination assessment and the factual reasons why you believe IR35 does not apply to your services. We would strongly recommend you to contact QDos for further help:

[freelancer@qdoscontractor.com](mailto:freelancer@qdoscontractor.com)

The client will have 45 days to respond to you and this does not guarantee that they will have to reconsider their position.

**what umbrella company can I use?**

Whilst we can't recommend you a specific umbrella company, Randstad have a preferred umbrella supplier list, these are the only umbrella companies we will accept for you to engage with - they have been assessed as appropriate and following all legal requirements.

The selected umbrella companies are (alphabetical order):

- Ape
- Clipper
- Crest
- Danbro
- Gia
- J
- NASA Consulting
- NoPalaver
- RACS
- Sterling
- umbrella.co.uk

**short summary flow**

