

Changes to the “IR35” legislation

The rules that apply to ‘off-payroll’ workers will change for medium and large-sized businesses from April 2020.



Historically, the PAYE and NIC burden for ‘off-payroll’ workers (contractors) employed by a personal service company (PSC) has rested with the PSC. However, this historical position is changing from April 2020.

Whilst the aims of the changes are quite straightforward, they could have a significant impact for those affected. In a significant policy shift, the new legislation will place the employment tax compliance burden on the companies which engage the contractors/freelancers. In practice, this could:

- a) Increase the costs faced by employers;
- b) Increase the compliance risks faced by employers; and
- c) Potentially reduce the availability of skilled contractors.

The core changes

The core changes that will be introduced from April 2020 are:

- Private sector companies will be responsible for assessing contractors’ ‘deemed employment’ status from April 2020, shifting this responsibility from contractors as has been the case since the initial restrictions (known as IR35) were first introduced almost 20 years ago.
- When assessing a contractor’s status, companies must complete a status determination so in theory, there can be no blanket assessments placing contractors inside IR35.
- The draft legislation includes a new ‘client-led status disagreement process’ – placing a duty on companies (deemed employers), to make sure that they are assessing contractors/deemed employees on a case-by-case basis in a structured, coherent and correct manner.



Whilst the aims of the changes are quite straightforward, they could have a significant impact for those affected.

- The draft legislation includes clauses allowing for the transfer of the liability through the wider labour supply chain. As such, companies affected by these changes should look to understand the overall agency/contractual arrangement for their contractors from a diligence perspective.
- Small companies remain exempt from the new legislation, as defined by the Companies Act. The definition of a small company (small group) is a company that doesn’t exceed two of the following three criteria:
 - A turnover of under £10.2m per annum;
 - Aggregate assets on the balance sheet of under £5.1m; ..and
 - Not more than 50 employees.

However, small UK subsidiaries of larger, international groups would still be caught by the legislation, if the overall group they belong to exceeds the above criteria.

What does this mean for companies?

As the legislation is expected to be finalised by November 2019 and the changes introduced in April 2020, companies have only a limited period to start preparing for these changes. As such, whilst some changes may be introduced to the above proposals, it is important for companies to consider the impact of the changes on their ‘workforce’ and understand:

- Which contractors are likely to be impacted by the change;
- How staff are trained to do the appropriate assessments of contractor status recognising that the issue of employment versus self-employment is an innately complex area requiring proper review and assessment;
- What changes the company may need to make to its positioning as a deemed ‘employer’, to ensure that it has access to the required skills and expertise;
- How will it monitor the ‘wider labour supply chain’, if it is using other agencies and companies on a sub-contracted basis.

How can Blick Rothenberg help?

Blick Rothenberg is experienced at working with companies as they look to grow and develop. As such, Blick Rothenberg can:

- Help companies understand if the rules apply to them (which can be particularly important for small companies that are looking to grow rapidly);
- Ensure that key staff (e.g. in finance, payroll, HR) are trained on the regulations;
- Provide tools for employers to make the correct assessment re deemed employers;
- Act as an external specialist and advisor in the more complex cases; and
- Ensure that the risks that arise from a deemed employment perspective in ‘due diligence’ situations (e.g. on acquiring a smaller company) are proactively reviewed.

If you have questions or concerns then please contact your usual Blick Rothenberg contact or one of the individuals listed in the footer of this document who will be able to assist you further.



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