



YOUR HANDY GUIDE TO IR35



ASSESSING IR35

End Clients will be expected to assess contractors in five key areas:

- Mutuality of Obligation
- Supervision, Direction and Control
- Right of Substitution
- Financial Risk
- Part and Parcel



No one element will determine a contractor's IR35 status, instead a profile will be compiled to understand the End Client and contractor's working relationship.



MUTUALITY OF OBLIGATION

Mutuality of Obligation refers to whether a client is obliged to offer work (and pay the contractor) and if the contractor is obliged to take it. If this were the case it would be deemed to be a contract of service (employment).



SUPERVISION, DIRECTION AND CONTROL

How much control does the contractor have over how the services are delivered? How much supervision is there over a contractor and how much is their work directed and controlled?



RIGHT OF SUBSTITUTION

Right of Substitution allows the Personal Service Company to send a replacement who meets the required criteria. As a Limited Company, a contractor is providing services to the End Client which do not necessarily need to be delivered in person.



FINANCIAL RISK

As a Limited Company a contractor will be expected to carry a certain amount of risk – for example, returning to correct unsatisfactory work at their own time and cost and paying for their own equipment.



PART AND PARCEL

As an external worker, the contractor should not be seen as part of the business – this includes everyday working practices such as parking in staff car parks, attending social events and receiving benefits like permanent employees.



IR35 means businesses may need to change how they engage contractors to ensure external workers meet IR35 guidelines.



Linx is part of the NRL Group, leaders in contingent labour supply.

We provide bespoke solutions to help businesses develop a robust and compliant IR35 business strategy.



01942 614 605

ENQUIRIES@LINX-SOLUTIONS.CO.UK

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THE KEY THINGS YOU NEED TO KNOW ABOUT IR35



IR35 REFORM

IR35 already operates in the Public Sector, and HMRC plan to extend it to the Private Sector in April 2021.



ASSESSING ASSIGNMENTS

IR35 applies to an assignment, not a contractor. A new determination is required for each new assignment.



IN SCOPE

HMRC deems a contractor as a disguised employee and is therefore liable for income tax and National Insurance Contributions (NIC) at source.



OUT OF SCOPE

A contractor is not classed as an employee and is therefore not required to incur income tax and National Insurance deductions.



CEST

Check Employment Status for Tax – HMRC's online tool for IR35 status determinations.



STATUS DISAGREEMENT PROCESS

Contractors have the right to dispute an IR35 status determination, and the End Client has 45 days to review and feedback to the contractor.



FEE PAYER

The organisation who pays the contractors fee, usually the recruitment agency. The Fee Payer is responsible for making income tax and NI deductions.



STATUS DETERMINATION STATEMENT

The End Client is responsible for determining IR35 status for each contractor.



WHAT SHOULD END CLIENTS DO NEXT?

Review contractor workforce and working practices. Develop fully auditable processes that will demonstrate reasonable care is taken for IR35 determinations if challenged by HMRC.



WHAT SHOULD CONTRACTORS DO NEXT?

Review current assignment working practices and contract wording. Identify changes that could be made to better demonstrate work is completed as a genuine external contractor.



LOOKING FOR MORE SUPPORT WITH IR35?

Request a call back at linx-solutions.co.uk