



# Accountancy Co-operative

*the Approachable & Friendly accountancy service*

tel: +441202621622 web: [www.accountancy.coop](http://www.accountancy.coop)

## Individuals, companies and IR35 In conjunction with Business Link

IR35 legislation took effect from 6 April 2000 and is designed to bring the tax and National Insurance contributions (NICs) paid on certain engagements in line with the tax and NICs paid by employed staff.

IR35 may apply when you, as an individual, provide your services to a client through an intermediary. For example, if you set up a partnership or a limited company, your client contracts with the partnership or company rather than with you. This includes where your business contracts with an agency to supply your services to a client.

HM Revenue & Customs (HMRC) asks: "If the partnership or limited company did not exist in this arrangement, would your work for the client business appear to be one of direct employment?" If the answer to this question is yes, then IR35 rules may apply. This guide explains the rules surrounding IR35 and how to work out whether the rules apply to you.

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## Do the rules apply to a particular contract or engagement?

The IR35 rules are likely to apply to a contract or engagement if you answer "yes" to both the following questions:

- Would you be regarded as an employee if you worked for your client directly and not through your company or partnership?
- Do you have rights entitling you to receive a payment from your company or partnership that is not employment income?

These questions are explained in more detail below.



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## Would I have been an employee of my client?

The rules only apply if you would have been an employee of your client, had it not been for the existence of your company or partnership.

If you can answer "yes" to the following questions, you would probably have been an employee of your client for the contract in question and therefore fall within the IR35 rules.

- Do you work set hours, or a given number of hours a week or a month?
- Do you have to do the work yourself rather than hire someone else to do the work for you?
- Can someone tell you at any time what to do, when to do it or how to do it?
- Are you paid by the hour, week or month?
- Can you get overtime pay?
- Do you work at the premises of the person you work for, or at a place or places they decide?
- Do you generally work for one client at a time, rather than having a number of contracts?

If you can answer "yes" to many of the following questions, you would probably **not** have been an employee of your client and are therefore outside the IR35 rules.

- Are you hired to undertake a specific project of finite duration?
- Do you decide how, when and where to carry out your services?
- Can you make a loss on the contract?
- Do you provide the main items of equipment you need to do the job for the client, not just the small tools many employees provide for themselves?
- Are you free to hire other people on your own terms to do the work you have taken on? Do you pay them out of your own pocket?
- Do you have to correct unsatisfactory work in your own time and at your own expense?
- Do you have a number of customers at the same time?

You will have to think about each contract or engagement individually. Some people find that they have some contracts that would have been employment and so are covered by the rules, and others that are not.

The number of clients you have may be relevant to the decision whether you work for each as an employee, or as a self-employed person.



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If you have many different clients this may indicate self-employment, and be a factor that should be considered in addition to the details of each contract.

If you have a number of different clients, but are unsure whether you are within or outside the rules, you may wish to contact the IR35 unit through the HMRC website.

Before you sign a new contract, it's worth thinking about the IR35 implications. If you feel the contract does not reflect your relationship with the client accurately, you may want to negotiate changes.

[Read guidance on IR35 on the HM Revenue & Customs \(HMRC\) website.](#)

## **Do I have rights entitling me to receive a payment from my company or partnership that is not employment income?**

If you work through a company as a company shareholder, you will have rights entitling you to receive a payment that is not employment income in the form of a dividend on your shareholding.

If you are a member of a partnership, your share of profits is usually chargeable as trading income, not as employment income.

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## **Get an expert opinion**

You can seek a professional opinion from an accountant or independent tax adviser. An Internet search under IR35 will show many such sources for advice.

You can also [read about supplying services through a limited company or partnership at the HM Revenue & Customs \(HMRC\) website.](#)

If you are not sure whether the new legislation applies to a particular engagement, advice is available from the IR35 Unit, who you can contact for a written opinion.



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The IR35 Unit can also provide technical advice on the legislation.

[Contact the IR35 Unit through the HMRC website.](#)

HMRC will review the facts. This will involve looking at whether the relationship between a worker and a client would have been one of employment, if there had been no company or partnership.

To do this HMRC will review the contract or contracts which establish the relationship. They may also talk to you and others, including the end client and any agency. The IR35 Unit may not be able to provide an opinion if you do not give permission to contact third parties.

If you do not agree with the opinion given by HMRC, and further discussion has failed to achieve agreement, you can request a formal decision against which you can appeal.

### **Where can I find out more?**

To better understand your employment status, [read guidance on employment status on the HMRC website.](#)

Also [read the guidance notes on IR35 at the HMRC website.](#)



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## My contract is within IR35 - what should I do next?

You will have to calculate any additional tax and National Insurance contributions (NICs) on all payments falling within IR35 for the tax year. This is known as the deemed payment.

[Read about how to calculate a deemed payment at the HMRC website.](#)

You are given a timetable to follow:

- **5 April** - calculate your deemed payment.  
[Download an IR35 deemed payment calculator from the HMRC website \(XLT\).](#)
- **19 April** - send any tax and NICs due on the deemed payment, or a payment on account of any tax and NICs due.
- **19 May** - send your end of year PAYE returns (forms P35 and P14).  
Include any deemed payment, and the tax and NICs due on it. If you have not finally calculated your deemed payment, include a covering letter explaining that your figures are provisional.
- **31 January** - if you sent provisional figures on 19 May, send corrected figures now, and pay the balance of any tax and NICs due. Remember that interest will be payable on any additional tax and NICs due from 19 April until the date paid. You will also need to be issued with a corrected P60 giving you the information to include in your personal self assessment tax return.

You should continue to operate PAYE and pay NICs in the usual way on any salary paid to you during the year, and report any taxable benefits - such as a company car - to HMRC on form P11D. The deadline for submitting form P11D to HMRC is 6 July.

Penalties can be applied if it is not received within 14 days of the deadline. See our guide to [income tax self assessment for employers](#).

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## HM Revenue & Customs IR35 Contract Advice Line

0845 303 3535

### Related guides on [businesslink.gov.uk](http://businesslink.gov.uk)

Manage your personal list of starting-up tasks with our Business start-up organiser

Use our interactive Regulation check-list to create a personalised list of regulations that affect your business

Employment status

Income tax self assessment for employers

Income tax self assessment for partners

Income tax self assessment for directors

### Related web sites you might find useful

Contact the IR35 Unit through the HMRC website

<http://www.inlandrevenue.gov.uk/ir35/help.htm>

Read information on IR35 legislation on the HMRC website

<http://www.hmrc.gov.uk/ir35/>

Read about supplying services through a limited company or partnership on the HMRC website

[http://www.hmrc.gov.uk/leaflets/guide\\_limitcomp.htm](http://www.hmrc.gov.uk/leaflets/guide_limitcomp.htm)

Read the guidance notes on IR35 at the HMRC website

<http://www.inlandrevenue.gov.uk/ir35/>

Download an IR35 payment calculator from the HMRC website (XLT)

<http://www.inlandrevenue.gov.uk/ir35/ir35.xlt>

Read about how to calculate a deemed payment at the HMRC website

[http://www.hmrc.gov.uk/leaflets/calc\\_deempyt.htm](http://www.hmrc.gov.uk/leaflets/calc_deempyt.htm)



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