

The background of the slide features a group of people in business attire holding up large white question marks on dark blue boards. The image is semi-transparent and serves as a backdrop for the text.

IR35 Demystified

Identifying Your Status
Within the Legislation



When figuring out if IR35 applies to you, you'll be categorised as either '**inside IR35**' or '**outside IR35**'. These terms are crucial for defining your status and assessing how the law might affect your future contract work.

So, what exactly do '**inside**' and '**outside**' IR35 mean, and how do you know which one applies to you?

What is IR35?

The **IR35** legislation applies to contractors who work through a limited company, providing specialised services to a client. HMRC examines each contractors contract and work arrangement to decide if they fall inside or outside **IR35**.

If HMRC determines that a contractor is being treated like a full-time employee or receiving similar benefits, they will be considered inside **IR35**. Such contractors are labelled as 'disguised employees' and suspected of tax avoidance.

HMRC is investigating these individuals to uncover if they are using a limited company to evade paying higher taxes and national insurance. If found guilty, they will have to pay the owed taxes to HMRC. According to the new rules, any outstanding national insurance contributions will also be reclaimed by HMRC.

What does it mean to be inside IR35?

If you are deemed to fall inside **IR35**, you are required to pay taxes and national insurance similar to a permanent employee. This means your taxes will be managed through PAYE, with the correct deductions taken from your pay each month. Additionally, your client is expected to match the national insurance contributions paid to the government. Both you and your client will be held responsible if these payments are incorrect.

In the public sector, the agency or hiring body will deduct national insurance and income tax from your monthly paycheck. In the private sector, according to the off-payroll rules, your employer is responsible for determining if their team members fall inside **IR35**. If they fail to provide the correct information to HMRC, they may be liable for the owed taxes.

What does it mean to be outside IR35?

If you are working outside **IR35**, you are legitimately operating as a contractor and being paid through your limited company, exempt from **IR35** regulations. It's your responsibility to ensure you pay the correct amount of national insurance and tax on the money earned from your work. Additionally, you won't be subjected to PAYE by the contracting employer.

Determining where you fit in the IR35 legislation

- **Substitution**

If your employer has the option to send a substitution to complete works in your place, it suggests that you aren't providing a personal service, and the worker isn't an employee.

- **Control**

If your employer controls your workload and the way in which it is carried out, it suggests you are inside IR35 as you are not deemed as providing a specialist service.

- **Mutuality of obligation (MOO)**

If both parties pass the above tests, it is unlikely that MOO applies as it will be deemed outside IR35 anyway. MOO can be present in both contracts of service and contract for service.

- **Risk**

If a contractor can make a profit or a loss i.e. financial risk this would suggest that the contractor is outside IR35.

Defining whether you are inside or outside IR35 before and during every contract that you undertake is crucial, as every contract is different and each can be taxed differently if needs be. Be sure to follow the above advice and speak to your employer or seek specialist advice if you are unsure about the status of any contractual roles you apply for.



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