

# IN-Formed: Guide to IR35



## What exactly is IR35?

In April 2000 the Government brought in legislation aimed at countering what HMRC class as a disguised employment. This is referred to as IR35.

The intention really is to stop people leaving full time employment then returning to the same job immediately as a contractor, in order to take advantage of tax savings and reduced NI payments by setting up their own Limited Company.

If a permanent employee were to leave their company on a Friday afternoon then return to the same company on the following Monday in the same job role, HMRC would class this as a disguised employment.



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## Why is it important to me?

As a contractor, HMRC will determine your tax position as to whether they consider your status to be 'inside' or 'outside' of IR35.

This in turn will determine the tax which your company will be charged on your earnings.

Essentially, think 'inside' equals 'increased' tax, whereas 'outside' you have more freedom in how you take your net pay in the most effective and tax efficient manner.

## What is the financial impact if I am inside IR35?

You will find yourself caught inside IR35 if HMRC deems you

to have the same level of control, responsibility, risk and liability as a permanent employee. If this is the case, then they will consider that as you don't have the same level of control and are not taking the financial risks as a director of a true limited company, you aren't entitled to the same corporate tax structure.

This means that your entitlement to claim expenses will be reduced, but the biggest financial impact to you will be in terms of the tax and NI you will have to pay. Employer's NI is 13.8% of your salary above £153 per week, and employees NI is 0% for the first £153 per week, 12% for the next £652 a week, and 2% thereafter. For a contractor on a day rate of £500, this would work out as a cost in real terms in the region of £22,673 per annum (£5,831 employee's NI and £16,842 employer's NI)

## The Financial Impact!



### If you are on a day rate of £500 and find yourself caught by IR35:

- Your company pays **£5,831** in Employer's National Insurance
- You pay **£16,842** in Employee's National Insurance
- Meaning a reduction in take home pay of **£22,673**

If we can be of further assistance please contact us via:



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## What should I do if I am caught inside IR35?

There may still be benefits in trading through your own limited company, as both your tax and NI liabilities are calculated after tax free personal allowances, and there are certain expenses which you will still be able to claim, such as travel and accommodation and a general 5% of your turnover to cover all miscellaneous business expenses. You might also still be able to benefit from savings available through the VAT flat rate scheme (see our guide to Flat Rate VAT for Contractors for more detail and the potential financial benefit of registering), as well as be able to receive interest on any funds held within your own company.

### Remember!



As a director, it is your responsibility to ensure that your IR35 status is always clear. You are putting your company and yourself at risk if you take dividends without carefully considering your IR35 position. You would be advised to take specialist professional advice, at least biannually, on both your own and your company's individual situation to be sure of your status.

At IN Accountancy our tax specialists provide this service to all of our contractor clients as a free of charge consultancy, and will be happy to spend the time helping you set up in the best and most tax efficient manner possible.

## How do I know if IR35 applies to me?

There are certain pointers which HMRC will look at, and which therefore you can use as a very rough guideline as to what you should consider in order to remain 'outside' of IR35.

These include:

- **Who is in control of your work?**

You? Or your Client? To remain outside, you must be free to work under your own control, as a director of your own company, as opposed to being managed by your client.

- **What's the financial risk to your business?**

True Limited companies have an element of owner investment and financial risk associated with them. Who has supplied the equipment you use, and any other resources (including people) you require to satisfy your contractual obligations? If it is you who is responsible, then that is another good indicator to HMRC that you fall outside of IR35 status.

- **Who can do the work?**

You would be advised to include a clause in your contract allowing you to use somebody other than yourself to perform the task your company has been contracted to do. This is commonly referred to as substitution, and shows HMRC that the contract is with a company rather than a sole individual.

- **How and when can the agreement be terminated?**

Within your contract you should provide for immediate termination, rather than a fixed notice period as with employees, should your client so choose.

- **What other benefits do you receive?**

Basically none! You should not receive any holiday pay, sick pay, pension contributions, training courses, membership of healthcare schemes, Christmas dinners or be invited to attend any staff trips or outings.

Please remember, however, that IR35 regulations are extremely complex and HMRC will look at a number of other things in addition to the above and will review all aspects of your business to establish that you are indeed a director genuinely running, managing and controlling your own limited company rather than an employee. Regardless of the length of time you are working for your client, whether for one month or much longer periods, it's what you're doing, how you're doing it, and your level of control, responsibility and risk that counts.

For more information and advice on choosing the best structure for your company, please refer to our **IN-Formed Guide to Legal Entities**

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