

6 January 2021

## Employment – 20:20 vision

Providing clarity and insight on employment law matters

Are you ready for the new IR35 rules?



This time last year you may well have been preparing for the changes to the IR35 Rules extending the off payroll working rules to the private sector (which we'll refer to as the "new IR35 rules", for short). These were due to come into force from 6 April 2020 but as a result of Covid-19 were postponed by a year. This means it's time for employers to put IR35 preparation back on the agenda to ensure they are ready for the new implementation date of 6 April 2021.

By way of reminder here are some of the key points.

### What is IR35 again?

The IR35 legislation aims to ensure that workers providing services through an intermediary, such as a personal service company ("PSC"), but working like employees, pay broadly the same employment taxes as employees.

Currently, in the private sector, the liability sits with the PSC to assess whether the payments received for the worker's services are caught by the IR35 rules and it's the PSC that needs to account for any tax and national insurance contributions ("NICs") due.

### And what's changing from 6 April 2021?

The new IR35 rules in force from 6 April 2021 shift the liability from the PSC to the end user business (save in the case of small businesses or where there is no "UK connection"). Essentially, the end-user business (the client) becomes responsible for deciding whether or not an engagement falls within IR35 by making a "status determination assessment". The end-user business (or where there is a supply chain, the business contracting with the PSC) would also become responsible for deducting, and accounting for, income tax via PAYE and NICs.

### So, in practice, what does this mean for businesses?

There are significant implications for end-user businesses, including:

- an additional administrative burden on businesses that engage individual contractors via PSCs, including making a status determination and dealing with any appeals;
- increased business costs in the form of employer's NICs for those individual contractors who are determined to be employees for tax purposes; and
- potentially higher rates of pay sought by contractors to mitigate the increased tax burden they face.

### Have there been any other changes since the implementation of the new rules was postponed?

Most of the legislation remains unchanged but there have been a few changes that were published in May 2020.

We've picked out here some of the key changes:

- medium or large end-user businesses captured by the new IR35 rules must have a "UK Connection" for a tax year (which is based on residency or permanent establishment in the UK immediately before the beginning of that tax year) – meaning many overseas clients are likely to be out of scope;
- end-user businesses will be obliged to respond to requests for confirmation of whether or not they qualify as "small" for the purposes of the new provisions; and
- qualifying conditions relating to company intermediaries have been widened.

Please do get in touch with us if you would like further information on these changes or any of the other amendments.

### Next steps

It's time to revisit those IR35 plans and to get ready for the changes in April 2021. Please do get in touch if you would like us to prepare a checklist to assist you with your preparation. We can also give you more information on the changes specifically relevant to your organisation, and we can review and update your template consultancy agreements

### Contact us



#### Anne Pritam

Partner

T: +44 20 7809 2925

Email: [Anne](#)



#### Leanne Raven

Professional support lawyer

T: +44 20 7809 2560

Email: [Leanne](#)