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IR35 toolkit

Off Payroll

Working Rules

2020 guide

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Off Payroll Working Rules

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From April 2021, mid-sized and large private companies engaging contractors via personal services companies will be subject to new “Off Payroll working” (IR35) obligations, which may mean more cost for business and have a great impact on the market for contractors in the private sector.

The new obligations were originally intended to take effect from April 2020 but have been postponed until April 2021 in response to the COVID-19 crisis, giving companies some additional time to prepare.

Obligations



Rather than obligations falling on the personal services company (as happens at present under IR35), from April 2021 the ultimate “client” in a contracting chain will be required to determine whether the individual providing services to them is a deemed employee or a genuine contractor.



The client then passes that determination down the chain of contracts until it reaches the “fee-payer” (the company in the chain which contracts directly with the personal services company).



If the client has determined that the contractor is a deemed employee, the fee-payer must operate PAYE and pay 13.8% employer’s national insurance contributions, meaning increased cost for the fee-payer which it cannot easily pass back up the chain to the ultimate client.

These changes require businesses to consider closely (perhaps for the first time) their arrangements with contractors and may drive significant changes in business models for some companies.

Although the changes do not come into force until April 2021, **there are steps which businesses can be taking now** to prepare:



Identify and review current arrangements with intermediaries which supply labour to you (including PSCs and agencies)



Consider your commercial contracts and any mechanisms which may need to be built in to manage risk



Review current arrangements for the use of contingent labour



You may wish to reconsider your business model to ensure you fall squarely within exemptions, such as the outsourced services exemption



Implement processes for procurement, HR, tax and line managers, to ensure consistent decisions about employment status



If you are a “Small Company” which will not be caught by the changes in April 2021: assess future risk and monitor growth



Review internal systems to see if changes are required:

- Payroll software
- Process maps
- HR policies
- Onboarding policies



Budget for increased cost

How Kemp Little can help you...

The Kemp Little IR35 service can help you with these steps – please contact Kathryn Dooks or a member of the team for further information.

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They are always super responsive, great value for money and have strong capabilities in very complex cases.

Client quote
Chambers and Partners
Guide to the Legal Profession



We have two packages to assist businesses with their IR35 planning. Please contact us to discuss either of these packages in more detail.



Our **SILVER** package:

Fixed price workshop to:

- Walk through the new Off Payroll Working Rules and their impact on your business; and
- Understand your company's use of contractors and its various labour supply structures.

Fixed price reviews of:

- Contracts under which your company engages contractors via personal service companies; and
- Your company's contracts with agencies or other intermediaries which supply labour to you.
- A "playbook" providing guidance on how to handle contractors in practice, to avoid falling within IR35 and the new Off Payroll Working Rules;
- Assistance with making status determinations and determining your company's strategy for handling compliance with the new rules.



Our **GOLD** package:

Everything in the silver package, plus the following add-ons where the company's relationships with its clients are impacted by IR35 and the Off Payroll Working Rules (typically where your company is the "Fee Payer" for the purposes of the new rules but another company higher up the chain is the "Client" who will make the status determination):

- The workshop referred to above would also include a review of the company's commercial contracting structures with its clients which may be impacted by the new rules;
- Fixed price review of the company's contracts with clients, where impacted by IR35 and the Off Payroll Working Rules; and
- A "playbook" providing guidance on dealing with the company's clients in practice to ensure that commercial arrangements fall outside IR35 and the new rules.
- Determining your company's strategy for handling compliance with the new rules and discussing with clients
- Providing clients with a status determination solution

Your key contacts



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