



QUESTIONNAIRE TO DETERMINE IR35 STATUS

Please work your way through the questionnaire below to determine if a contractor is outside of IR35. Determine if the off payroll rules apply from 6 April 2020. If any ticks in the NO box you may need to review the working relationship between the contractor and organisation.

FACTORS	YES ✓	NO ✓
CONTROL AND DIRECTION Contractor is not under direct control Contractor is not supervised or line managed Hours are not specified Days are not specified Break times are not specified Weekly/monthly work is not guaranteed Contractor may carry out the work where it is most appropriate Contractor is not expected to undertake key duties but meet milestone and/or complete tasks Contractor is not fulfilling a role that has previously been undertaken by an employee A supervision clause is not contained in written agreement		
PERSONAL SERVICE/SUBSTITUTION Contractor can genuinely provide a substitute to carry out work A substitute has been used previously The contractor covers the costs of any substitute including training and making arrangements for substitute on site Substitution clause is written in agreement		
MUTUALITY OF OBLIGATION Contractor is not obliged to accept work Contractor does not expect ongoing/additional work Contractor is not regularly given work Contractor can be terminated without notice Contractor is not provided with a rolling contract Mutuality of obligation clause is written in agreement		
PROVISION OF EQUIPMENT Contractor uses own equipment Clause regarding equipment is written in agreement		
FINANCIAL RISK Financial risk lies on the contractor to undertake the work Contractor rectifies mistakes in own time Clause regarding financial risk is written in agreement		
BASIS OF PAYMENT Contractor is paid on a "per project" basis rather than an hourly rate/day rate Contractor may invoice at agreed milestones		

Invoices detail work completed rather than hours worked Payment details are written in agreement		
PART AND PARCEL OF ORGANISATION Contractor is not obliged to attend staff meetings and social events Contractor can not use organisation facilities Contractor can not receive staff benefits		
EXCLUSIVE SERVICE The contractor has multiple clients and does not only work for your organisation. Clause regarding exclusivity is written in agreement		
INTENTION OF THE PARTIES The true status of the relationship is one of self employment and is written in an agreement.		
BUSINESS ON OWN ACCOUNT Contractor pays own NI and tax Contractor registered for VAT Contractor has other sources of income Contractor has own website and company email address Contractor has other sources of income Contractor has liability and professional indemnity insurance Contractor has multiple clients Contractor has own company letterhead, logo and invoices Contractor has own office space Contractor has own equipment Contractor's company registered with Information Commission Contractor advertises skills and abilities independently		

A written agreement between contractor and organisation is recommended – contract for services. It is important to draft an agreement carefully and ensure the principles of self employment are followed in order to avoid being caught in the IR35 trap. HMRC will financially punish a contractor as well as the organisation they have provided work for. If you need a written agreement we are able to provide a template.

In determining whether a person's contract work will be caught by IR35 or not, a number of key 'factors' are used to establish employment status, including elements such as the right to substitution, control, mutuality of obligation, and other factors which may or may not indicate 'self employed' rather than 'employed' behaviour.

The Intermediaries Legislation (IR35) was created in 2000 to clampdown on 'disguised employment' via the use of 'personal service companies' – whereby a traditional 'employee' would leave his/her job one day, only to return to work in the same or a similar role shortly afterwards, but working via a limited company structure.

The IR35 rules aim to tax 'disguised employees' who are working through their own companies and using the tax benefits that are available but are still working in a similar or identical manner to that of other employees.