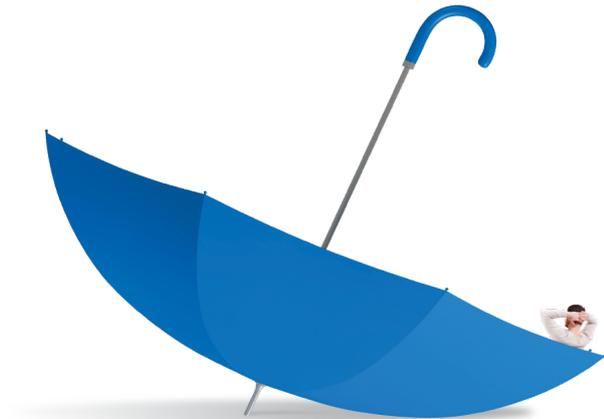


IR35 off-payroll working legislation: what are payroll solutions?

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how can contractors stay compliant from April 2021?

What are the IR35 reforms (also known as Off-payroll working)? Following the reforms that were made to off-payroll working in the public sector in April 2017, further reforms are now set to be rolled out to how IR35 is applied in the private sector. The new rules will mean that hirers, and not contractors, will be responsible for making IR35 status decisions from April 2021. The logic being that the hirer should know whether the contractor is working independently and not under their control or conversely, whether the contractor is working in a similar way to an employee.



HMRC believes that 9 out of 10 current outside IR35 determinations in the private sector are incorrect, losing the government millions in tax revenue each year (estimated at around £1.3 billion by 2023/24) hence, we can expect to see a vast number of contractors find that their status is switched to inside IR35 when the new legislation kicks in. Small end hirers will be exempt from the changes, with contractors working for them continuing as they do today, however those working for the vast majority of businesses will be affected. The high penalties and tax liabilities that are at stake will likely result in the supply chain taking a risk adverse approach and pushing most contractors in scope of the legislation (inside IR35).



What is the likely impact on you if caught by IR35 post April 2021? If you are now caught inside of IR35 you will need to reconsider your payment model options. The PAYE deductions that will need to be made on the whole of your assignment income will result in a significant reduction in net income. Some hirers may be willing to uplift your rate to compensate for the additional deductions, however, this is likely to depend on whether you are business critical, have very niche or hard to find skills.



what payroll solutions are available?

- PSC outside IR35

If your status is confirmed as outside IR35 or you work for a small end hirer (meeting the 2006 small companies' definition), then you can continue as normal working through your Ltd company and paying yourself dividends. Where your status is not clear cut, some end hirers may be willing to review their working practices to ensure that you are clearly pushed out of scope (e.g. by relinquishing control over you, allowing substitutes or clearly defining the project deliverables etc).



Some hirers may also start engaging their flexible workforce using statement of work (SOW) contracts, so based on you achieving set deliverables on which you are paid as opposed to being paid on a labour contract and hours or days worked. These options are only likely to be a reality for genuine contractors who are delivering specific, well defined projects and not those working like an employee as an extra resource at busy times or covering BAU work.



- PSC inside IR35

If you now find yourself inside of IR35, some agencies or fee payers may allow you to continue using your Ltd company, but will need to make the “deemed” deductions for tax, apprenticeship levy and employers and employees NI before paying the remaining net amount into your business bank account. Adjustments will need to be made to the fee payers payroll systems to ensure that they are geared up to make the correct deductions and new contracts would need to be negotiated, adjusting your assignment rate to allow for the necessary deductions for employers NI and the apprenticeship levy.

Where an agency or fee payer does not have the resources or systems to be able to process these deductions themselves, it may be possible for a third-party fee payer to sit in the supply chain to conduct the necessary processing and allow you to continue using your PSC. At **giant** we offer such an option to our agency and end client partners where they are unable or unwilling to do so.



why use your PSC if now inside IR35?

There may be benefits for you to continue to use your PSC if inside IR35. Firstly, you may alternate between assignments that fall inside and outside of scope, so it makes sense to continue using your own company. Another major benefit is that it may allow you to challenge an IR35 decision, should you believe it is incorrect, using newly proposed appeals process and reclaim any overpaid tax.



umbrella company

Working through an umbrella company will be the solution for the majority. If you join a legitimate umbrella you will become an employee with full employment rights, holiday, pay, workplace pension and access to all statutory payments such as sick pay, maternity pay etc. You will have the ability to claim business expenses and benefit from continuous employment which not only makes it easier for you to get any kind of financial credit such as mortgages, but also makes it easier to work on a variety of assignments through different agencies and end hirers. The assignment rate does not change but all income becomes subject to employers & employees PAYE taxes.

At **giant** we offer a well-established umbrella service which, among other benefits, includes giving you access to **giant** advantage, an employee benefits package, offering a variety of high street store discounts, car and bike salary sacrifice schemes and a 24 hour personal and work helpline - all saving you £000's, a comprehensive insurance package, a choice of how you receive your holiday pay, access to same day advances and a dedicated support team.



agency PAYE

Some contractors may take this route if it is an option. Recruitment agencies or sometimes the end hirers may put you on their own payroll. You become an employee with employment rights, holiday, pension, statutory payments. The assignment rate will need to be reduced to a lower PAYE rate to take into account statutory deductions that will need to be made but there will be no option for you to claim expenses. For some it might provide the simplest option.

Remember the old saying, if it walks like a duck and quacks like a duck...

As was seen with the reforms in the public sector, the abundance of new and creative options in the market increases tenfold, most of which pose as "umbrella companies" and claim to be legal or approved but offering you significantly better take home pay than is usual, sometimes as much as 90%. Beware of any company that guarantees you a percentage take home pay, especially if it is above 65%. If it sounds too good to be true then it usually is and these unscrupulous companies, many of which are actually providing offshore loan schemes, tend to disappear leaving contractors being chased by HMRC with unmanageable tax bills and penalties, many losing their homes to repay their tax debt which goes back many years.



what should you be doing now to prepare?

It is time for you to start engaging with your agency and end hirer, finding out if the hirer is a small company and therefore exempt from the new legislation or if not, how they intend to make their IR35 status decisions and when this will be communicated. If you are working as a genuine independent contractor on a specific piece of work and not like an employee, find out if there is an option for you to amend your working practices to ensure you cement your status as an outside IR35 contractor.



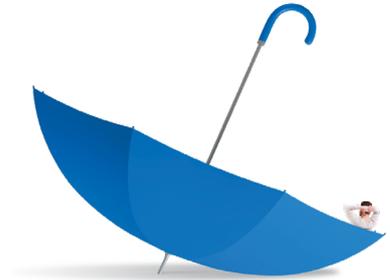
It is best to research now and plan what alternative payment options are available to you so you know which route to take should your status change. A good starting place to give you an indication on what your status might be would be CEST, the government tool which can be used anonymously and is free and available on the internet. Managing the reforms to arrive at the best outcomes for contractors will require the cooperation and engagement of all parties in the labour supply chain so it's time to get the conversation started!



about giant

Since 1992 **giant** have provided specialist, end to end workforce management software and support services for organisations of all sizes, globally. We invest heavily in our cloud-based software which ranges from talent acquisition and onboarding through to timesheet management, billing, and payroll. Our support services include candidate screening, employment solutions and legislative risk management including employment status advice as well our range of payment solutions available to contractors.

You can relax knowing your data is safe with us. Our commitment to compliance protects your business from risk and our rigorous international security standard ISO 27001 ensures that your data is GDPR secure.



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