

**Please Note: This communication is for informative purposes and may not affect you**



The rules regarding the engagement of temporary workers in the private sector are set to change.

Although deferred last year, the legislation has already been passed to bring it into effect from 6 April 2021.

End users of temporary staff are required to decide whether an assignment falls 'Inside' or 'Outside' IR35 and issue IR35 Status Determination Statements where the temporary worker may be paid by a Personal Service (Limited) Company.

#### **Who decides if I'm inside or outside IR35?**

Up until April 2017, it was up to the individual worker to decide whether they were inside or outside IR35.

However, IR35 legislation then changed for the public sector (NHS etc), and from 6 April 2021 the rules will be extended to the private sector.

#### **What are the clients saying?**

When the public sector adopted the rules, the vast majority of roles in the NHS were deemed to be inside IR35.

We are seeking clarity from our private sector clients. Those that have already declared their intentions have said that either:

1. All roles are inside IR35, meaning if you continue work via your limited company PAYE taxes will be deducted before you are paid

OR

1. All candidates are to be paid by PAYE directly by the agency i.e., not via an umbrella company or a Personal Service (Limited) Company. This means you will not be able to work with these end-user clients unless you are paid via PAYE

We will continue to seek clarification from each client and let impacted individuals know as soon as possible.

Clients must take 'reasonable care' in making their assessments and can be asked to explain their rationale.

#### **What does working inside IR35 mean?**

Being inside IR35 means that your earnings will be treated as 'employment earnings', meaning they will be subject to income tax, national insurance contributions and any other statutory deductions.

Who makes these deductions depends on your payment method:

1. If paid **PAYE via the agency** – the agency will make the necessary deductions
2. If paid via an **umbrella company** – the umbrella company is your employer, and they will make the necessary deductions
3. If paid via a **Personal Services (Limited) Company** – the agency will make the necessary deductions before paying the Limited Company

### **Are umbrella companies inside IR35?**

Where you are paid directly by an umbrella, you are an employee of that umbrella and IR35 does not apply. The umbrella will deduct the relevant tax and National Insurance from you as an employee.

If an umbrella company makes a payment to your limited company, the IR35 legislation applies and if your engagement is inside IR35, the umbrella should deduct tax and National Insurance.

### **What is an IR35 enquiry?**

An IR35 enquiry is a case brought forward by HMRC and occurs when a worker is found to be wrongfully claiming to be outside IR35 when, in fact, they are inside IR35. HMRC will pursue the guilty party in an effort to recoup lost income tax and National Insurance contributions. Additional interest and a potential penalty fee may also be deemed payable. For those found culpable, these charges can often stretch to tens of thousands of pounds.

### **What should I do?**

If you still want to be paid via your own Limited Company, you should speak with your consultant to ask whether an assessment has been done by the client where you are working. In our experience, the vast majority of roles for locum healthcare workers have been assessed as being within IR35, but it is up to individual clients to make their own determination.

If you have any questions regarding these changes, please contact us on [candidateservices@ywrec.com](mailto:candidateservices@ywrec.com).

### **And finally....**

Unlike many other agencies, we pay our PAYE workers direct on a daily basis throughout the week.

There are no fees attached, and you can have peace of mind that your taxes are being dealt with correctly. It is entirely possible to be paid PAYE direct by several different agencies – you don't have to work through an umbrella company just because you work for more than one organisation or agency.

Several umbrella companies have gone into liquidation recently, sometimes meaning workers don't get paid.

Increasing numbers are switching to PAYE and please speak to your consultant or [candidateservice@ywrec.com](mailto:candidateservice@ywrec.com) if you would like to change.

Kind regards,

**Your World Candidate Services**