

NAVIGATING IR35

FOR CLIENTS

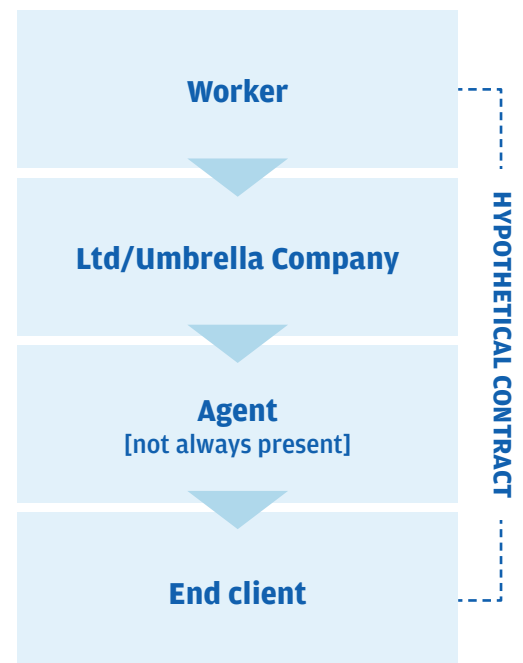
What are the regulations?

IR35 was introduced in 2000 to address concerns relating to Workers who supply their services via an intermediary PSC (Ltd Company) instead of as an employee, and therefore avoid paying employee income tax and national insurance contributions. Whilst many PSCs have operated according to the regulations, some have been found to have been the incorrect tax vehicle for the contract at hand.

Where an assignment is deemed 'inside' IR35, PAYE deductions must be made from the contractor's pay.

Any assignment 'outside' IR35 is classed as a genuine B2B service and is therefore not subject to the same tax treatment as employees.

In their assessment, HMRC look at the 'Hypothetical Contract' between the Worker and the End Client, and how the contract is actually carried out.



Legislation changes

Up until 2017 the legal responsibility for determining whether an engagement is inside or outside IR35 was with the Worker themselves.

With legislation released in April 2017 that responsibility switched to the End Client. This was initially limited to the public sector but will extend to the majority of the private sector from 6th April 2021.

The liability of an incorrect determination, in back taxes and fines, has also been switched from the Worker to the organisation paying the Worker. In many cases this is the Agency unless the Worker is paid directly by the End Client, in which case it sits with them.

Other changes to the legislation in April 2021

Small Company Exemption

The government proposes to exempt small companies from the off-payroll rules. A small company is defined in the Companies Act 2006 as a company which meets two or more of the following criteria:

- A. annual turnover of not more than £10.2 million
- B. balance sheet total of not more than £5.1 million
- C. no more than 50 employees

Right to information on the determination

HMRC have stated that the Worker will have the right to request information on how the End Client has reached their determination on the Worker's status.

What are the responsibilities and risks for organisations?

Going forward all organisations will have a statutory obligation to determine Workers' status through an assessment process. The legislation states that all companies must take 'reasonable care' when assessing, simply classifying every role in a 'blanket approach' will not suffice.

If a non-compliant procedure is followed, the financial penalties can be significant. Equally, contractors will be concerned by the changes, so it's critical you engage with both them and your supply chain to ensure retention of talent.

We are working with our clients to encourage a meticulous approach and emphasising that it is important to think about these changes and to act now.

The cost of non-compliance



TIME



**PROFESSIONAL AND
LEGAL FEES**



BACK DATED TAXES
[FOR BOTH THE CONTRACTOR
AND THE ORGANISATION]



PENALTIES

Assessments

What information do you need to make an assessment?

- The Worker's responsibilities
- Confirmation of who is responsible for determining what work will be undertaken
- Who decides when, where and how the work is completed
- How the Worker will be paid
- If the engagement includes any benefits or reimbursement for expenses

How and when you should run the assessments?

- Begin by assessing all existing temporary Workers
- Reviewing and determining the IR35 status before each contract starts
- Obtaining expert advice
- Conducting regular audits on your contract agency staff
- Recording information on the determination process
- Showing 'Reasonable Care' at every stage of the process

Reasonable Care

HMRC defines reasonable care as "doing everything you can to make sure the documents you send to HMRC are accurate".

If the End Client does not take reasonable care in making their decision, they may be liable for unpaid tax and national insurance.

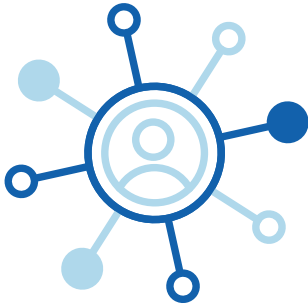


What should I do right now?

The government is still finalising the detail of the legislation, but to minimise the impact to the organisation it is critical to begin to act now.

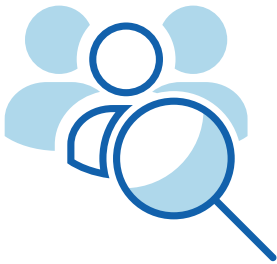
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Your IR35 Journey to Compliance



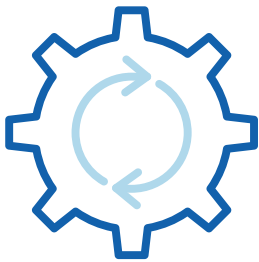
Engage with Stakeholders

Engage with your contractors, managers and agencies to tell them what you are doing and discuss how you can work together. We are able to work with you to help create processes to best protect the business with minimal impact. Carrington West, along with our supply chain partners, have a huge amount of experience of navigating the legislation changes and can help your organisation further understand IR35 and its implications.



Conduct an Audit

Understand who your contingent workers are, how are they engaged, what the contracts look like, how they are paid and what the associated risks are.



Create a process

Following a process which allows fair and thorough assessments of Workers and safeguards the organisation against any liabilities, with minimal impact to the day to day operations.



Implementation

Consistent implementation involving all stakeholders ensuring 'Reasonable Care' is demonstrated.

What is our experience?

There are few employment agencies who have more experience with IR35 than Carrington West. During 2017 we helped hundreds of contractors and many of our major public sector clients around the UK deal with IR35 changes. If your current agency does not have exposure to the public sector market, you are potentially already at a disadvantage in terms of their knowledge and experience.

How can Carrington West help?

We are currently conducting specific IR35 meetings with our clients across the UK.

The goals of these meetings are:

- To explain the legislation in more detail
- To work with the client to create robust and compliant policies and processes
- To implement these processes to maximise protection and minimise disruption for the organisation

In addition to the IR35 meetings, Carrington West have a number of services that can support our clients in preparation for the new legislation. For most organisations, relatively simple, well-informed decisions and changes will bring them in line with legislation.

How can we help:

- We can provide a workforce management and assessment tool which will streamline your processes and ensure compliance throughout the contract chain.
- We would offer an initial audit of your workforce to help you gain an understanding of the current situation.
- As an agency we can act as an intermediary for your direct Workers and therefore assume liability.
- We work with legal experts in IR35 to offer a review service of all current contractors and the supply chain involved in those payments.
- We can offer role reviews prior to starting a new recruitment process.
- We can provide regular audits of your contractors and the contracts themselves to ensure ongoing compliance with the legislation.
- We can provide alternative methods of payment for any Workers affected.

Benefits of using Carrington West to manage your direct Workers:

- Longer payment terms freeing up cash flow on payments.
- Contract Workers are all through one agency allowing for more efficient management.
- Consistent weekly payroll for all contractors.
- Time saving with effective outsourced contractor management and dispute resolution.
- Added legislation protection for your organisation from GDPR, EAA regulations and AWR.
- Cost savings with your current payroll system due to our economies of scale (compared to direct contractors/sub-contractors).
- Excellent value and efficient payrolling service, offering weekly pay to contractors and running at over 99% accuracy.
- Consolidated invoices.
- Single point of contact for all client / contractor issues
- Excellent levels of compliance.
- Offered for single placements or mass temp transfers

Next steps

Please get in touch with our highly trained and knowledgeable consultants to arrange an initial conversation, request further information or book an IR35 meeting.

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