

## IR35

### What is it?

A piece of tax legislation designed to combat tax avoidance by contractors providing their services through their limited company. From April 2021 it is the client's responsibility to advise whether the role a contractor is/will be doing is "inside" or "outside" of scope by providing a status determination statement (SDS)

For a client to be exempt from IR35 they must be classed as a small business and cover two of the three below criteria:

- Has an annual turnover of no more than £10.2m
- Has a balance sheet of no more than £5.1m
- employs 50 or less personnel

### What does inside of scope mean....

If the client tells you that the role is inside of scope, your contractor will need to work through an umbrella company (see our PSL)

In simple terms this means that the contractor has restricted flexibility while carrying out the role they will be doing. This is explained below:

- **Supervision, Direction and Control** - if a client has what is referred to as SDC over what, how, when and where a worker carries out the work.
- **Substitution** - if there is no way a worker is allowed or able to send someone else in to do the work on their behalf
- **Mutuality of Obligation** - is there an obligation for the client to offer work and the worker to accept it

### What does outside of scope mean....

- the client does not oversee the work being done or dictate how it is being done (supervision)
- the client does not provide instruction, guidance and advice on how the work is being done (direction)
- the client does not stipulate how the worker carries out the work they are hired to do (control)
- the client will accept that the "limited company" is able to send another fully qualified person to carry out the work on behalf of the original worker.
- exercise financial risk - being paid on a project milestone/ deliverables basis rather than hourly, put right any incorrect or below standard work at no additional charge

### What do I need to do?

1. Firstly, gauge the clients understanding of IR35
2. Find out whether the client is exempt or not
3. What is the client's positioning on IR35 - are they happy to work with limited company contractors? Or will they only use contractors who are paid PAYE through an agency or umbrella regardless of role status
4. If they are not classed as a small business, obtain a status determination statement (SDS) for outside of scope roles.
5. For all inside of scope roles, share the umbrella PSL with the contractor.