

GET READY FOR IR35

With the changes to IR35 soon to be rolled out to the private sector, large and medium sized businesses who engage an individual contractor through an intermediary (which will generally be a personal services company) will have to determine whether that individual is inside or outside the IR35 rules and demonstrate that they have exercised reasonable care in making such determination. HMRC's current status determination tool, Check Employment Status for Tax (CEST), provides a very simplistic and basic assessment of IR35 tax status. The courts themselves have on numerous occasions reached substantially different conclusions from the results produced under CEST.

If the engagement is determined to be inside IR35, then from 6 April 2020, the entity making the payments to the intermediary must deduct income tax and employee's national insurance contributions and must pay employer's national insurance contributions. It is therefore critical from a financial, legal and reputational perspective that the right determination is made.

HOW SHOOSMITHS CAN HELP YOU

Shoosmiths offers a range of services to help guide you through the IR35 tax obligations. Our national team of employment and tax specialists will work closely with you to understand your business model. We can advise on all your IR35 questions such as how to make a status determination, what to consider when engaging individual contractors in the future, how to protect your business and how to deal with an individual contractor who is 'inside IR35' including the impact this may have on their status for employment law purposes.

(1) SCOPING MEETING

- Initially we will carry out a high level review of your key contractor documentation, meeting with you to discuss the arrangements you have in place and to understand your business model. We will work closely with you to identify potential risk areas and to establish what steps you need to take and by when to ensure that you are ready for 6 April 2020.

(2) TAILORED IMPLEMENTATION PLAN

- Following our initial meeting, we can produce a tailored action plan for you. We will take a pragmatic, solutions-focused approach to this, acknowledging that in many cases, analysing each contract and engagement might not be appropriate or practical. We will also provide you with clear quotes for each stage of the action plan so that you can budget accordingly.

(3) COMPLIANCE AUDIT

- Shoosmiths' Employment Status Survey (SHESS):** SHESS is Shoosmiths' unique service that goes above and beyond CEST by covering an extensive base of questions, providing in-depth guidance and explanation as to how the determination is made. Through SHESS, and with our expert support, agencies, contractors and end clients will be able to assess the potential application of IR35 to any particular engagement.
- Tailored Risk Report:** Alternatively, we can review your completed SHESS and provide you with a tailored Risk Report in respect of each engagement you have with an independent contractor via an intermediary, identifying key risk areas and setting out the options available to you.

- **Audit Support:** If your IR35 status is reviewed by HMRC, we will be able to support you through the process and, by using SHESS, demonstrate that you have fulfilled your obligation to exercise reasonable care in making your IR35 status determination.

(4) REVIEWING, UPDATING AND DRAFTING CONTRACTS

- **Reviewing:** We can review your existing documents, including your consultancy agreements and any agreements with agencies, and can recommend any necessary changes. Our review can be as limited or comprehensive as you wish: if you are introducing changes, should you look at other clauses, for example around confidentiality or intellectual property?
- **Drafting:** We can prepare consultancy agreements for those falling both inside and outside IR35 and other commercial agreements to ensure they include appropriate protections for you. We can also prepare employment contracts and advise on related matters, such as continuous employment, should this be needed.

(5) UPSKILLING

- **General IR35 Training:** We are happy to provide a general overview of the IR35 rules to your procurement teams, managers, HR, in-house counsel and others involved in appointing individual contractors through intermediaries.
- **Tailored IR35 Training:** We can also deliver bespoke training sessions including practical guidance on how to make a status determination, what to consider before engaging an individual contractor via an intermediary and can tailor our training to the typical arrangements entered into within your organisation as well as providing guidance for those within your organisation tasked with making IR35 status determinations.

We will provide you with a clear quote for each of these services once the scope of what you need is known.

For further information or to discuss a fee proposal, please speak to your usual contact or one of our experts below:



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