



managing the IR35 legislation changes: are you prepared for April 2021?



Please read in conjunction with: [are you ready to manage the IR35 risk in the private sector?](#)

what do the changes mean and where do I start?

If you engage limited company contractors (PSC's) within your supply chain, from 6th April 2021 you will be responsible for determining their employment status in relation to IR35.

If they are deemed to be 'inside' IR35 and you engage them directly, it will be your responsibility as the fee-payer to deduct employer's national insurance, apprenticeship levy, PAYE tax and employee's national insurance and pay to this to HMRC.

If you engage PSC's via an agency or other third party, you must pass them your IR35 status determination and they as the fee-payer must then implement the same deductions.

Should you fail to carry out the IR35 status assessments on contractors that prove to be inside IR35, then you become liable for the payment of underpaid taxes. The financial risk of making the wrong decision is high. Clearly 'outside IR35' decisions carry the highest risk. Your gross financial liability for lost tax, national insurance, apprenticeship levy, interest and moderate penalties over a 3-year period for an average contractor earning £100,000 pa is well over £100,000.

The IR35 assessments need to be done in plenty of time. Where the assignment is deemed inside IR35, any payment made on or from 6th April 2021 (irrespective of when the work was done) is liable for taxation.

You should plan to ensure everyone is assessed in good time and all current contracts terminated by the end of February 2021 to allow payments to clear before the 5th April.

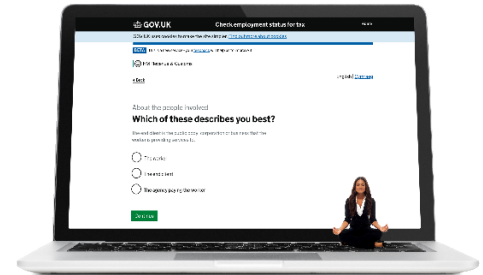
Carrying out the assessments now puts you in a strong position to:

1. understand the scale of change required
2. review compliance within your supply chain given the high financial risk
3. put in place solutions to compliantly process and pay PSCs inside IR35
4. consider any critical roles within your business where the cost may increase due to the role being inside IR35
5. decide your engagement strategy (e.g. class all contractors inside IR35 in the future to minimise risk)
6. give a clear and considered direction to your workforce with early communication



Those who react at the last minute may find that their workforce becomes disrupted due to non-communication of the changes or has already made alternative arrangements – resulting in potential loss of talent.

The IR35 assessment process will ultimately be carried out on hundreds of thousands of contractors. There will be serious pressure on assessment service providers so it is advisable to complete your process and planning before the late rush, which may cause you to not meet the deadline / make poor decisions in haste.



who can help?

The **giant group** is perfectly placed to support you in assessing your situation, considering your future strategy and providing practical implementation of the right approach to suit your business.

The IR35 assessment process needs to be carried out first. It is expected that in excess of 75% of current PSC contractors will be deemed 'inside IR35' but this benchmark needs to be established for your business.

The HMRC tool (CEST) will give a high-level status determination based on a series of questions.

The **giant group** has access to other, more robust, online assessment tools that will give a more graded and balanced outcome which substantiates the claim to be inside or outside of IR35. One such tool has successfully defended over 1,500 claims in the Public Sector in the last 2 years.



Once the correct IR35 status is established, **giant** is qualified to discuss all the potential approaches and to facilitate the calculation of alternative cost scenarios.

It may be possible for instance to change working practices with certain PSC contractors to ensure that they are engaged appropriately to be deemed 'outside' of IR35. This will cost you less and ensures that you do not lose talent to businesses who have thought this through more thoroughly.



what are my options going forward?

You will also need to decide your approach to absorbing some of the additional costs incurred throughout the supply chain.

Where a role is inside IR35, will you pass the employer's national insurance costs on to the contractor by reducing the rate you pay to them? Will you expect the agency (if involved) to pick up that cost as the fee-payer?

Whatever you decide, you will need a trusted partner to implement the chosen approach.

The options will be one of:

1. permanent direct employment: employ the worker on a permanent basis. This may not be popular with the worker who wishes to continue moving around and may not suit you in terms of headcount, overheads, recruitment process and so on.
2. PEO: utilise a Professional Employer Organisation to engage the contractors directly, thereby removing all employment risk from your business. This would be a separate payroll with different terms and conditions for the workers but where employers NI, apprenticeship levy and PAYE taxes are deducted and passed to HMRC by the PEO.
3. agencies: continue to engage the workers through agencies, passing on the status determination and expecting the agency to make the deductions as the fee payer. It is important to note that if an agency does not make correct deductions, the new rules allow HMRC to transfer the liability to you the hirer, so it is essential that you have confidence in your supply chain.

Options 2 and 3 are likely to be the approach in the vast majority of cases.

The **giant group** has been a provider of employment and payroll service for 27 years and is therefore perfectly placed to fulfil option 2 and we have provided this service for over 10 years to clients such as Barclays. Our PEO service has become increasingly popular with hirers since the introduction of the government's Good Work Plan to increase transparency and eradicate the complications experienced by contractors in today's market.

The automated and efficient technology of the right PEO provider will ensure swift, compliant and hassle-free onboarding and on-going management. As a broad-based workforce management solutions provider, **giant** is also able to offer screening services and software to help with on-boarding, time management and billing.



In option 3, you may wish to continue with your existing agencies, but in many cases they will not have the capability to manage PAYE workers or the deductions required where a role is inside IR35. In such situations, giant can sit in the chain between you and the agency and provide the 'back office' payroll services which offers 2 principle benefits – assurance that the administration will be done efficiently by a proven expert and secondly that your supply chain will always be compliant.

what do I do next?

To discuss how the changes affect you and the most appropriate approach for your business, please email hello@giantprecision.com and an expert will be in touch.



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.

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.



 0330 024 0946

hello@giantprecision.com
www.giantprecision.com

The logo for 'giant' is rendered in a stylized, blue-outlined font. The letters are lowercase and have a thick, blocky appearance with a double-line outline effect.