



Tax Alert

IR35 Discussion Document

This tax alert highlights the key issues in the discussion document 'Intermediaries Legislation (IR35): discussion document' that was recently published by HM Revenue & Customs (**HMRC**).

Background

The Government introduced the intermediaries legislation (commonly referred to as IR35) in 2000. IR35 was designed to deal with 'disguised employees': individuals who sought to avoid employment taxes by working through intermediaries, primarily their own limited company, often known as a Personal Service Company (**PSC**).

On 17 July 2015, HMRC published a discussion document acknowledging that the legislation is not working effectively and that non-compliance with IR35 is widespread. Essentially, the Government believes that many people, who should be classified as employees of a company, are instead remaining as self-employed or working through their own PSC in order to gain a substantial tax and National Insurance Contributions (**NIC**) advantage.

What are the proposed changes?

At this stage, the Government is seeking suggestions in order to improve the effectiveness of IR35 with the main aims of protecting the Exchequer and levelling the playing field between those who are employed directly and those who would be employed directly if they were not operating through their own company.

As a result, HMRC have outlined some options for improvement:

- improving administration of existing legislation;
- increasing enforcement;
- encouraging engagers to take on more of a role to ensure the correct amount of employment taxes are paid; and
- simplifying the test for determining if IR35 applies.

What are the next steps?

Recognising the complexity of the issues and acknowledging the impact any changes could have on those individuals who are genuinely self-employed, the Government is currently welcoming views on:

- proposals for how to improve the effectiveness of IR35 to meet its aims stated above;
- views on the potential effectiveness of engagers taking a greater role in being responsible for operating IR35 and how it could be made as straightforward as possible; and
- views on the implications of a change in the tests to determine whether IR35 applies.

How will these proposed changes affect self-employed individuals / contractors?

Despite any new legislation on IR35 being some way off, it is clear the Government is seeking to tighten the existing rules in order to generate far greater sums of income. If the burden of proof of IR35 compliance switches to engagers and the tests become clearer, those self-employed or working through intermediaries could become liable to the same level of NIC's and PAYE as regular employees of a company and in some cases may end up paying more.

When do comments need to be submitted?

HMRC is seeking comments by 30th of September 2015 and these should be emailed to HMRC at ir35.reform@hmrc.gsi.gov.uk

Where can I get help?

New Quadrant Partners Limited has extensive experience advising self-employed individuals, contractors and their PSC's on a range of tax issues including the impact of IR35.

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