

What is IR35?

IR35 is the name given to the tax and national insurance legislation that was introduced in the UK on 6th April 2000 and must be taken into account by all workers in the UK who provide personal services through a limited company. The government's intention has been to identify people, working through personal service companies, whose working practices are essentially the same as a permanent employee and bring the level of tax they pay into line with tax on the earnings of employees.

The following gives a flavour of some of the factors that would be relevant in determining whether the legislation will apply to you and your business; factors like:

- The degree of control you have over the work that you do
- Whether you take financial risk or have potential for liability in the same way as a true business or whether risks and liabilities have more in common with those of an employee.
- Do you really have the right to send a substitute?
- Whether there is any mutuality of obligation between you and the client.
- Do you receive any employee type benefits – mobile phones, holiday or sick pay, are you invited to staff events etc?
- Long notice periods tend to be associated more with employment than commercial contracts between businesses.

Unfortunately, there is no clear guide that makes it easy to determine whether IR35 is applicable or not. The decision needs to be looked at on a case by case basis and this is where our expertise can help.

What does this mean to you?

If the nature of your business means that you are not caught by IR35 then you are free to choose how much salary the company will pay you, whether you will vote a dividend and whether you will leave funds in the company for future use. With this choice comes greater opportunity to maximize retained earnings.

If you are caught by IR35 the tax legislation dictates that you are taxed largely in the same way as an employee, under PAYE and NI. There may still be some benefit to working through your own company however. You can still claim travel and subsistence costs, you benefit from an additional 5% expense allowance and many businesses in these circumstance will benefit financially from being registered under the VAT flat rate scheme.