

What do the Public Sector changes mean?

Q. What is the legislation?

The government has announced changes from 6th April in the way IR35 is administered for Personal Service Companies (PSCs) operating in the public sector. IR35 was introduced in 2000 to determine whether or not a contractor should be treated any differently than an employee, for tax and National Insurance purposes. The responsibility for determining your IR35 status has to date, rested with the contractor but from 6th April this moves to the company paying the PSC, whether it is the recruitment agency, public sector body or someone else. We expect the vast majority of contractors will be viewed as an employee under these changes with normal taxes and national insurance deductions made and paid to HMRC.

Q. How is the "public sector" defined?

The legislation uses the same definitions of a public sector organisation as the Freedom of Information Act 2000 and Freedom of Information Act (Scotland) 2002. This legislation lists some public sector bodies by name.

Q. Who is affected?

All parties in the supply chain namely:

- 1. The Public Authority** - will be required to confirm to an agency or PSC with which it engages whether the role advertised is inside IR35. The specific question that Public Authorities have been asked to consider is "would you have taken this person on as an employee or a self-employed supplier if you had hired him/her directly?" HMRC has created an online tool (still in development) to help the Public Authority to make the decision. HMRC estimates that 90% of workers will be caught and the online tool when finalised will no doubt produce this result. Public Authorities must calculate, deduct and remit PAYE and NIC deductions to HMRC where the worker is caught.
- 2. A Recruitment Agency** - if paying a PSC will be under the same obligation as the Public Authority including the responsibility to deduct tax. The real difference is that the agency should have an opinion from the Public Authority about the status of the role. It will be very difficult for an agency to challenge this since HMRC will be able to point to the Public Authority opinion.
- 3. The PSC** - In situations where the Public Authority or agency believe that the role is "caught" it will only receive the net of tax amount. This may cause cash flow issues where there are outstanding bills. There will also be complications in calculating liabilities that the PSCs accountants will have to deal with. The worker/company director will need to provide personal details to the Public Authority (or agency) including their National Insurance number, date of birth and personal address, and P45 from previous employments. Currently only the PSC details are required for payment to be made. Net pay is likely to go down by 10-15%.

Q. How will the IR35 assessment be made?

HMRC will be providing an online tool that can be used to assess whether a contract falls inside or outside IR35. Although the tool has not yet been released we are expecting some sort of questionnaire completed by both the worker and the client. However regardless of whether the tool is used, the revenue may still decide to investigate. Assuming the questions have been answered accurately there should be no issue, but it's always a good idea to get a second opinion from an expert if there is any uncertainty.

What do the Public Sector changes mean?

Q. What if a contractor works for multiple clients covering public and private sectors?

IR35 applies whether the PSC operates in the public or private sector, however if the contractors work in the private sector is outside, they should, for that work, still be able to operate in the same way as they do today.

Q. What are the options for contractors?

Contractors should consider whether it is still financially viable to work through a PSC. For most an umbrella will be more attractive as less hassle. Workers will also receive all their employment rights such as statutory sick pay, statutory maternity pay and holiday pay, to name a few.

If a worker stays PSC and has PAYE deductions made by the agency, take home will be less than it would be through an umbrella company. PayStream can provide tailored comparisons where required.

Q. Should contractors close their PSC?

Where a Public Authority states that the role is inside IR35 there is a concern that HMRC would then look at previous years and seek to raise an assessment. Due to this contractors should consider whether or not to close their PSC.

Q. What's happening with flat rate VAT?

A new 16.5% VAT rate will be introduced this April. The new rate will be for businesses with limited costs. This change may mean the flat rate scheme may not be the best option going forwards for some contractors and they may choose to operate under the standard rate scheme instead.

Q. Where can I get advice?

For more information on how this legislative change will affect you, call PayStream on 0161 929 6000 (option 1).

Take home pay table

	Hourly rate						
	£15	£20	£25	£30	£35	£40	£50
PSC (inside IR35) Take-home pay*	£393.40	£506.54	£619.11	£708.93	£804.09	£899.25	£1089.57
Umbrella Take-home pay*	£398.06	£509.62	£620.77	£720.57	£815.73	£910.89	£1101.21

*Figures are based on an average PayStream contractor using the 2017/18 tax rates. Figures may vary depending on individual circumstances.