

IR35 | Do you know the risks for non-compliance?

What is IR35?

IR35 is tax legislation aimed at ensuring contractors and freelancers who work like employees pay similar tax to employees. It primarily targets “disguised employment,” where individuals operate as contractors but their working relationship mirrors that of an employee.

1. The Risks of Non-Compliance

Failing to comply with IR35 can have serious consequences:

- **Tax Penalties:** HMRC can demand backdated tax, National Insurance contributions, and interest, often going back several years.
- **Fines:** Companies can face penalties of up to 100% of unpaid taxes for deliberate non-compliance.
- **Damaged Reputation:** Investigations can damage a company’s reputation, leading to loss of business or future contracts.



2. Who is Responsible?

Post-2021, the responsibility to assess IR35 status has shifted:

- **Large and Medium Companies:** The hiring company must determine the contractor’s IR35 status and ensure compliance.
- **Small Businesses:** Contractors are only responsible for determining their own IR35 status in companies with turnover <£10.2m.



3. Signs You Could Be Non-Compliant

- **Tight Control:** Your contractor should not be working under tight supervision. They should control how they work.
- **No Business Risks:** Your contractor should own some business risk. If they don’t you could be non-compliant.
- **Use of Company Equipment:** Using company-provided tools and resources (like laptops or offices) could suggest that the contractor is an employee.



4. How to Ensure Compliance

- **Conduct Regular Status Reviews:** Review contracts and working arrangements to ensure they align with your IR35 status.
- **Seek Expert Advice:** IR35 rules can be complex, so legal and financial advice is crucial to avoid missteps.
- **Maintain Auditable Documentation:** Keep detailed records of your business practices, contracts, and communication with clients to maintain an audit trail.



5. Consequences of Misclassification for Businesses

- **Liability for Back Taxes:** Businesses may have to pay all unpaid taxes, plus interest and penalties.
- **Increased Scrutiny:** Non-compliance may trigger more frequent HMRC audits and closer monitoring.
- **Reputational Damage:** IR35 investigations can cause a loss of trust with clients, decreased competitiveness, and difficulties securing future contracts.



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