



**THE OUTSOURCED PAYROLL PEOPLE**

## **IR35 'Off-Payroll' changes in April 2021**

April 2017 saw a significant change in IR35 legislation applied to Public Sector working practice. April 2021 will see the same 'Off-payroll' enforcement applied to the Private Sector.



## What is IR35

IR35 is tax legislation that HMRC introduced in 2000 to combat tax avoidance.

It is designed to determine whether a temporary worker should be classed as employed ('Inside IR35') or self-employed ('Outside IR35').

If a worker is being paid on a Limited Company basis (Personal Service Company [PSC]) but is found to be operating in what is considered an employed basis, they are 'caught' by this legislation and therefore will need to be taxed as if they are employed.

What determines IR35 status?

Determining IR35 correctly can be very complex as many things need to be considered. One starting point is asking questions to confirm the nature of the work...

1. Does the contractor have control over what days and hours they choose to work?
2. Does the contractor have full autonomy over the method and manner in which it works?
3. Can the contractor send a suitable substitute to carry out the work if they wish?
4. Can the Client refuse to provide the Contractor with work?
5. Can the Contractor refuse to provide any further services at any time?

If the answer is mainly NO, IR35 will most likely apply!





## What is changing in April 2021?

Just like the Public Sector in 2017, HMRC are shifting the liability. It will now be the responsibility of the Agency and/or the End Client to ensure the worker's status is correctly identified.

If found to be incorrect, HMRC can demand 'unpaid tax' from the Agency/End Client considering who the 'fee-payer' is and the status determination process.

If an Agency / Client are paying many Limited / PSC contractors who are subsequently 'caught' by IR35, the tax liability suddenly becomes more significant.

## What is 'small company exemption'?

'Small companies' will be exempt from the change.

The definition of a 'small company' is determined if 2 of the following 3 criteria apply:

1. Annual turnover less than £10.2m
2. Balance sheet less than £5.1m
3. Number of employees less than 50

*This refers to the 'end client', which is the company whereby the PSC is carrying out their services.*

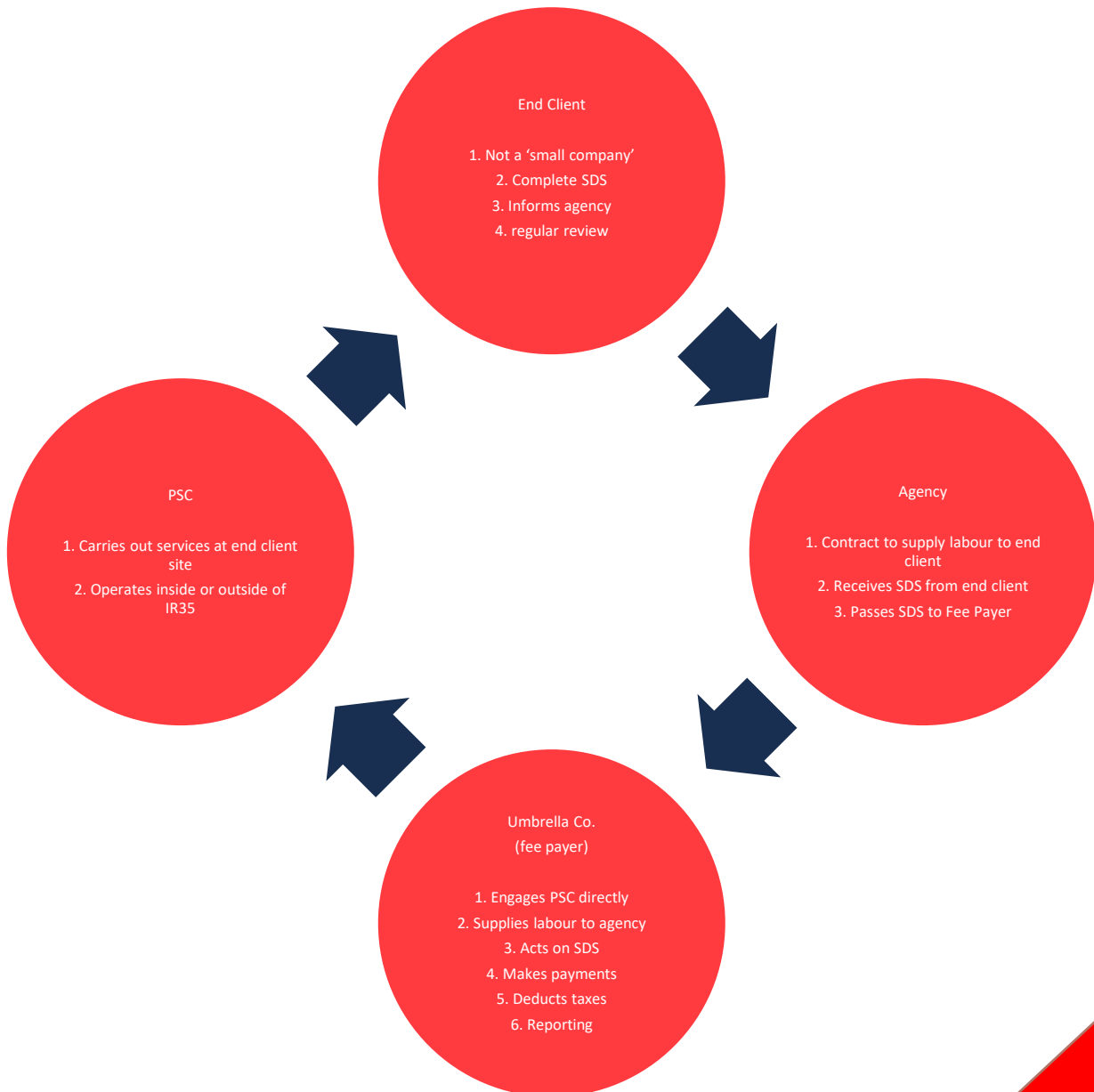


**HM Revenue  
& Customs**



## Supply Chain

It is extremely important that there are strong communication channels throughout the supply chain.





## What you need to do

1. Audit your workforce. How many are PSC's?
2. Is the client a 'Small Company'?
3. Discuss process with End Client
4. SDS process – Inside or Outside IR35?
5. Compliant contracting alternatives for those caught 'inside IR35'.
6. Legal advice and SDS assessment help form our strategic legal partners, and IR35 & Employment Status Specialists, Trinity Tax.
7. Confirm the options available for each contractor.
8. Start implementing changes for the candidates to move into compliant models.
9. Risk-assess the current supply chain and update supply chain contracts.
10. Ongoing review, support and legal advice.





## How can Omnia help?

### Expertise

- ✓ If a 'work around' sounds too good to be true, it probably is. Omnia will only operate within the legislation
- ✓ Regular updates from our legal partners with industry expertise

### SDS Assessment

- ✓ Working with all parties in the supply chain in order not to disadvantage genuine Limited Company workforce
- ✓ Keeping easily auditable records for inspection and regularly assessing long term roles

### Workforce Assessment

- ✓ Assist in the identification and assessment of the entire workforce
- ✓ Review contracts and carry out risk assessment
- ✓ Discuss alternative methods of engagement where applicable

### Risk

- ✓ The IR35 determination (SDS)
- ✓ The role of 'fee payer'
- ✓ Calculations of deemed salary, where applicable
- ✓ Sham contracts and engineered arrangements

### Fee Payer

- ✓ Take on the 'fee payer' risk
- ✓ Manage the compliance
- ✓ Engage directly with the PSC
- ✓ Make PAYE deductions where applicable

### Ongoing Support

- ✓ Professional and legal advice
- ✓ Scheduled review of long term contracts
- ✓ Case Law assessments
- ✓ Regular newsletters and updates



## Data Protection

On 25th May 2018 the UK adopted the European Union General Data Protection Regulations (GDPR) ahead of the UK legislation – The Data Protection Act 2018. Omnia Payroll takes data protection very seriously, we will look after your staff's data as if it was our own. All Omnia's staff are GDPR trained, we also have trained GDPR practitioners who ensure we abide by current regulations and legislation.

## Anti-Money Laundering Checks

Omnia adheres to the Anti Money Laundering regulations, we will be performing compliance checks on all entities we engage with, this check will be carried out following a submission of a proposal outlining the services offered. We reserve the right to request compliance information from an independent source to verify that the companies and individuals that we engage with have not been subject to sanctions, and that we adhere to Anti Money Laundering regulations 2007.

The compliance check is undertaken by a regulated and independent third party. Omnia reserves the right to discontinue provision of services in the event that any entity is found to be engaged in activity contra to our AML policy. If you have any queries in relation to this compliance check or on any points within this proposal, then please do not hesitate to contact us.