

IR35 April 2020: the options

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Who are we?



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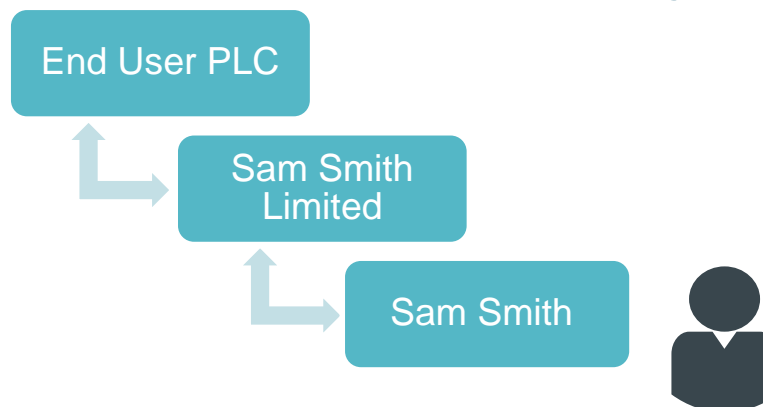
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Takeaways

1. What are the IR35 rules?
2. What you should be doing now
3. Issues / options to consider

IR35 Overview



■ Broadly, IR35 rules apply where:

1. worker personally performs services for another person (**End User PLC**);
2. services provided under arrangements involving a 3rd party (commonly a **PSC**); and
3. “circumstances” are such that if worker had contracted directly with the end user, worker would be regarded for income tax purposes as employed by the end user.

■ “Circumstances” – no exhaustive list:

- mutuality of obligation;
- control / supervision over worker;
- worker’s financial risk;
- extent to which worker part and parcel of client organisation, substitution rights etc.

April 2020 changes

- End user responsible for:
 1. determining employment status
 2. deducting income tax and NICs
 3. paying employer NICs (13.8% extra cost, including apprenticeship levy)

- Use HMRC's digital service, "Check employment status for tax" (**CEST**), <https://www.gov.uk/guidance/check-employment-status-for-tax>

- Need to make determination before the later of:
 - contract starting; OR
 - work starting.

- May need to review original determination

- In an agency context, end user responsible for determination and agency responsible for deduction but liability for income tax and NICs may transfer to the end user if no reasonable care taken

What should you be doing now?

- Plan for April 2020 implementation
- Communicate with existing consultants and internal stakeholders
- Speak to agencies
- Classify categories of consultants
- Audit existing consultants (PSC? Agency?)
- Review contracts

Options and issues to consider

- Classifying categories of consultants
 - how will you apply the test?
 - who has ownership of the process?

- Audit existing consultants
 - impact of reclassification
 - managing terminations
 - ongoing monitoring

- Review contracts
 - re-issue or maintain?

Options for mitigating against IR35 risk

- No one factor will determine



Contracts

- parties to the contract
- right of substitutability
- length of service
- scope of services
- supervision
- expenses
- exclusivity of services



Employment Practices

- how do they hold themselves out?
- “Integration” into the team
- provision of equipment
- how they carry out work

- How does this work for the end user in practice?

Q&A

