

Off-payroll working changes for contractors

All medium and large private sector clients are now required to determine whether they need to deduct tax and NI when paying contractors.

Contractors and other individuals working through their own limited company may be affected by the changes to off-payroll working rules (IR35).

How have the off-payroll rules changed?

The IR35 rules were introduced in 2000 to combat the perceived exploitation of the tax system, whereby workers were being paid via their personal service companies instead of having tax and National Insurance (NI) deducted at source via PAYE.

The off-payroll working rules are designed to ensure individuals working like employees, but through their own limited company or other intermediary, pay generally the same Income Tax and National Insurance contributions as individuals that are directly employed.

On 6 April 2021, the off-payroll working rules changed, meaning that medium and large private sector firms, along with the public sector, are now required to determine whether they need to deduct tax and NI when paying contractors.

The self-employed

The off-payroll working rules only apply to individuals who are working like employees under the current employment status tests, and do not apply to the self-employed.

If an individual operates their own business structure and, for example they have their own business

premises, employ other workers or work for a wide range of clients, they will continue to be outside the scope of the updated off-payroll working rules.

The changes for contractors

- + Medium or large-sized non-public sector organisations will now decide the contractor's employment status for tax purposes;
- + Public sector organisations of any size will already determine the contractor's employment status and there are no further changes from; and
- + Contractors will remain responsible for considering their employment status for small non-public sector organisations.

How the changes impact contractors

The changes to off-payroll working rules affect how much income tax and National Insurance Contributions contractors pay.

It is the responsibility of the contractor's client to establish their employment status for tax and provide a 'Status Determination Statement' to explain their decision. Contractors might be required to provide additional data to help inform the determination.

If contractors do not agree with their client's determination, concerns can be raised through the client's status disagreement process. The client has forty-five days, from the date they receive the disagreement, to respond.

Click here for further information on the disagreement process: 

All clients are required to introduce a process to enable contractors to disagree with their determination.

Contractors inside the off-payroll working rules

If a client determines that a contractor is inside the off-payroll working rules and that they are employed for tax purposes, they will deduct the necessary tax and National Insurance before the contractor is paid.

Contractors will still be required to submit a tax return and the income and tax already paid, as a result of the off-payroll working contract, will be shown in the employment pages of their Self Assessment return.

Contractors will get relief on the tax already paid.

Click here for further information: 

If the off-payroll working rules apply, this does not mean that the contractor is entitled to statutory payments or employment rights from the client they provide services to. However, salary paid from their own limited company may entitle them to statutory payments.

Click here for further information: 

Contractors outside the off-payroll working rules

If a contractor is outside the off-payroll working rules and they are self-employed for tax purposes, their limited company or other intermediary will continue to receive gross payments and will remain responsible for meeting its tax obligations for that income.

Compliance checks

HMRC will never use information acquired from the off-payroll working rules changes to open a new compliance enquiry into returns for tax years before 2021-22, unless there is reason to suspect fraud or criminal behaviour.

Off-payroll working rules flowchart for contractors

HMRC have a helpful flowchart for contractors to illustrate how they might be affected by the updated off-payroll working rules.

Click here to download the flowchart: 

Next steps

Contractors should consider whether the rules are likely to apply to them and how this will affect their overall tax liability. It may be necessary to review the terms of their contracts and, if caught by the off-payroll working rules, determine how this affects their business strategy and fee structure for the future.

This is a complex area of tax law and the effects can be significant for both engagers and contractors.

At **M+A Partners**, we are here to advise and support you through the changes to the off-payroll working rules. If you need help, then please get in touch with your usual M+A Partners contact or email: enquiries@mapartners.co.uk



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