

IR35 and You: The PayStream Guide

What is IR35?

"IR35" is the name commonly used to refer to a piece of tax legislation which came into force in July 2000. It was introduced with the aim of preventing the avoidance of tax.

Does IR35 apply to me?

IR35 is relevant to workers who supply their services through private limited companies or partnerships and pay themselves dividends. If you run your own business as a registered limited company or partnership, IR35 is applicable to you and you need to consider the implications of this, starting with working out whether you are 'inside' or 'outside' the legislation.

IR35 has also been extended to 'office-holders' for tax purposes. As from 6th April 2013, where a worker provides their personal services to a client via an intermediary to fulfil the duties of an office, the income from those services must also be subject to PAYE/NICs as employment income. Simply put, limited company contractors will not be able to operate outside the scope of the IR35 legislation when acting as an office-holder for their client.

You do not need to worry about IR35 if...

- You pay employed levels of PAYE and National Insurance Contributions (NICs) whether as an employee (including umbrella company arrangements) or as an agency worker being paid directly by the agency on PAYE.
- You are self-employed as a sole trader, i.e. working as an individual with full liability for any debts you may incur. Please note that in these circumstances, you will need to consider whether you are genuinely self-employed.

[You can view more information here](#)

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What does it mean to be 'inside' or 'outside' IR35?

If you are inside IR35, you should be paying employed levels of tax. If you are outside IR35, you may choose to pay yourself using a combination of salary and dividends. Whether or not you are inside the legislation is the most pressing question. Unfortunately, it is often the most difficult to answer. In essence, you are inside IR35 if you are effectively an employee of the place you work at (even if your contract explicitly describes you differently). You are outside IR35 if you are genuinely in business on your own account. But in practice, things are more complex than that and it is easy to get it wrong – sometimes with serious consequences.

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Am I inside or outside IR35?

HMRC has [produced guidance](#) to help people determine whether or not they fall within IR35.

However, it is not as easy as you might think. In practice, IR35 investigations are conducted on a case-by-case basis. There have been a couple of high-profile investigations, such as the [Dragonfly Consulting case](#) and the [Island Consultants case](#) where workers believed they were outside IR35 but were found by HMRC to be within it.

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How can I make sure my contract assists me in falling outside IR35?

You can ask an adviser, such as PayStream, to review your contract and advise on whether it helps put you outside IR35 or inside. But, you should not be misled in thinking that this will automatically secure your status as being outside IR35. HMRC will make its own judgement about the relationship between contractor and client and in doing so will establish how you work in reality.

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How can I make sure I'm not investigated?

It is standard HMRC policy to carry out checks on contractors and no one can guarantee that they will not be investigated.

IR35 investigations tend to stem from standard PAYE or VAT enquiries. To keep your profile with HMRC low, you should therefore keep your accounting records in order and your taxes paid and up to date.

If you are definitely within IR35 and you do not intend to claim otherwise, things are simpler. Many contractors opt to use an umbrella service such as [My Max](#) from [PayStream](#). As an employee of our company, we will handle all your accounting and tax affairs and still help you to maximise your take-home pay.

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How do umbrella companies help with IR35?

When you use an umbrella service like [My Max](#), you become an employee of the umbrella company. The contract work you do for your clients is therefore through the umbrella service. Legitimate umbrella companies will deduct employed levels of PAYE and national insurance contributions from your gross salary and pay them to HMRC on your behalf, just like any other company that directly employs you. That means you don't have to worry about IR35 or your tax obligations.

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Will an umbrella company reduce my tax bill?

With an umbrella company, you are taxed at the same rate as any other employee. The only potential savings come from tax relief on expenses. A good umbrella company like [My Max](#) will calculate the tax relief on your allowable business expenses and this can save you significant amounts of [money](#). Where possible, you should always get receipts for your expenses and send to the umbrella company as requested, or retain safely at home for 6 years.

If an umbrella company claims that it can reduce your income tax or NI contributions, or let you claim more expenses than other companies, walk away. Income tax, NI and allowable expenses are set by HMRC and no company has the power to alter these. If a company "allows" you to claim for extra expenses, you still have to prove to HMRC in the event of an investigation that the expenses were genuine.

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Will a limited company reduce my tax bill?

If you are genuinely running your own business, forming a limited company outside IR35 is more tax-efficient because you can receive some of your income in the form of dividends, which does not attract national insurance. However, if you are subsequently found to be inside IR35, this could prove very costly as you will have to repay the tax you would have paid as an employee, plus penalties. You should take professional advice before taking this step.

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