

**1 Arrangements made by intermediaries**

- (1) In Chapter 8 of Part 2 of ITEPA 2003 (application of provisions to workers under arrangements made by intermediaries), in section 49 (engagements to which Chapter applies), in subsection (1), for paragraph (c) substitute—
- “(c) the circumstances are such that—
- (i) if the services were provided under a contract directly between the client and the worker, the worker would be regarded for income tax purposes as an employee of the client or the holder of an office under the client, or
- (ii) the worker is an office-holder who holds that office under the client and the services relate to the office.”
- (2) This section has effect for the tax year 2013-14 and subsequent tax years.

**EXPLANATORY NOTE**

**APPLICATION OF PROVISIONS TO WORKERS UNDER ARRANGEMENTS MADE BY INTERMEDIARIES**

**SUMMARY**

1. This clause amends Chapter 8 of Part 2 of the Income Tax (Earnings and Pensions) Act (ITEPA) 2003 – the intermediaries legislation (commonly known as IR35) to extend the application of this chapter to office holders. Prior to this amendment an office holder would not be considered to be an employee so an office holder engaged via an intermediary would not come within this legislation.

**DETAILS OF THE CLAUSE**

2. Subsection (1) replaces subsection 49 (1)(c) of Part 2 of ITEPA 2003. It extends Chapter 8 of Part 2 of ITEPA 2003 so that it applies to office holders when they are engaged through a third party intermediary. The extension applies both where the worker is named as an office holder of the client but paid through an intermediary and where the intermediary (third party) is named as the office holder of the client. It applies in each case where the worker would be considered as an office holder of the client if the services were provided directly under a contract between the worker and the client. In the situations described above, providing there is also a requirement for the personal service of the worker, this clause brings into charge for income tax, as the worker's deemed earnings from employment, any payment made to the worker via an intermediary (third party).

**BACKGROUND**

3. The intermediaries legislation in Chapter 8 of Part 2 of ITEPA 2003 considers the underlying nature of the relationship between the worker and the engager; if this relationship would be considered to be employment, if it were not for the interposition of the intermediary, then the legislation applies. Where the intermediaries legislation applies, the income received by the intermediary (third party) is deemed to be employment earnings of the worker and the worker is liable for income tax on it, calculated in accordance with Chapter 8.
4. This change equalises the tax treatment of office holders engaged through third parties with the treatment under the relevant National Insurance legislation, under which they are already in the same

position as individuals who would be in an employment relationship if engaged directly.

5. If you have any questions about this change, or comments on the legislation, please contact Sarah Radford on 020 7147 2414 (email: [sarah.radford@hmrc.gsi.gov.uk](mailto:sarah.radford@hmrc.gsi.gov.uk)).