

## IR35 FORUM MINUTES – 11<sup>th</sup> February 2015, 11:00am

Location: 100 Parliament Street, London

### Attendees

Rowena Fletcher	(RF) HMRC (Chair)
Clare Sheehan	(CS) HMRC
Mark Frampton	(MF) HMRC
Joanna Were	(JW) HMRC
Mike Brown	(MB) HMRC
Philip Lloyd	(PL) HMRC
Lewina Farrell	(LF) Recruitment and Employment Confederation
Jason Piper	(JP) Association of Chartered Certified Accountants
Simon McVicker	(SM) The Association of Independent Professionals and the Self-Employed
Julie Stewart	(JS) The Association of Independent Professionals and the Self-Employed
Lesley Fidler	(LF) The Chartered Institute of Taxation
Kate Cottrell	(KC) IR35 Specialist
Carl Henning	(CF) The Freelancer and Contractor Services Association
Samantha Hurley	(SH) Association of Professional Staffing Companies
David Heaton	(DH) The Institute of Chartered Accounting in England and Wales

### Apologies

Julia Kermode	The Freelancer and Contractor Services Association
Jacqueline Gray	HMRC

### Welcome and introductions

1. RF opened the meeting and thanked everyone for coming. She introduced Clare Sheehan as the new Policy Team Leader, and Mark Frampton as HMRC Policy lead on IR35.
2. A review of the action points from the minutes of the previous meeting was undertaken. **(See Annex 1 for Action Points (AP))**. APs 1, 3 and 4 to be discussed in the meeting.

### Administrative Burden

3. The House of Lords Select Committee on Personal Service Companies recommended that HM Revenue & Customs (HMRC) carry out and publish a detailed assessment of the current Exchequer protection figure and of the costs that taxpayers incur in dealing with IR35. The meeting discussed an update on the publication of the administrative burden, and the following points were discussed:
  - comments raised by the Forum were considered and reviewed by the analysis team;
  - the calculation was based on current data;

- is based on detailed profiling;
- consistent approach used in the House of Lords; and
- is based on the impact on taxpayers.

Final points raised: it was suggested putting the calculation into perspective for the public. HMRC will update the Forum on final publication date of the administrative burden. **AP 1**

### **Terms of Reference (ToR) and membership**

4. The Forum welcomed views on the draft ToR, and agreed:

- that it would be useful to have additional representation from the Institute of Chartered Accounting in Scotland;
- the current membership group is a manageable number and strikes the right balance of representatives;
- the forum can invite other representatives/specialists as appropriate for particular agenda items;
- to meet three times a year; and
- to review the ToR annually.

HMRC will make the agreed changes. **AP 2**

### **The IR35 Administrative Review report**

5. The IR35 Administrative Review report covering five strands of the IR35 review process was published on GOV.uk on 5 January. Points raised in discussion:

- The recommendations have been grouped under guidance, improving awareness and understanding of IR35, and a customer focused approach to compliance.
- IR35 guidance has transitioned onto GOV.uk with news items published in 'latest' section, allowing users to subscribe to alerts.
- There are regular checks on the 'user needs' of those using guidance.
- Following the announced withdrawal of the BETs, HMRC are working with Treasury on updating guidance before 6<sup>th</sup> April.
- Segmenting the needs of the customer will enable better targeted communications.
- Continuing to raise awareness and providing support to external seminars where it is an effective use of resources.
- In terms of status opinion it was agreed that the only person in a position to give an 'opinion' is a status inspector.

Next steps: progress on the implementation plan for the report's recommendation will be included in future forum meetings, in particular how best to provide guidance and support to customers, including through the contract review service. **AP 3**

## **Statistics**

6. HMRC published data on the number of IR35 enquiries and yield from investigations for the past five years up to and including 2013/14 (**See Annex 2**).

Points raised in discussion:

- Following a new approach to compliance interventions, there was an increase in the number of IR35 enquiries taken up in tax year 2012/13.
- The number of enquiries opened and the compliance yield in any given year will not directly correlate as the yield will often relate to enquiries opened in an earlier year.
- HMRC operations are committed to deploying resources to tackle 250 enquiries at any one time.

Final points raised from statistics: enquiries are opened to both address risk where it is identified and to assure overall compliance in the customer group. The release of future statistics is subject to e-data availability and internal sign off processes. HMRC will inform the Forum of future disclosure.

## **AOB**

7. HMRC confirmed that guidance on the Employment Intermediaries reporting requirements is due to go live shortly and will issue a link to all Forum members after the meeting. **AP 4**

8. It was agreed to reschedule the next Forum meeting until after the election. The next meeting will be held on the 16 July 2015 at 11am, 100 Parliament Street.

## Annex 1

### Action Log – IR35 Forum

<b>Action Point (AP)</b>	<b>Lead</b>	<b>Open/Closed</b>
<b>AP 1</b> To consider the comments raised by the Forum on the administrative burden and respond to these when the final estimate is published.	Robert Burton	Closed
<b>AP 2</b> Let the Forum know that guidance has gone on GOV.uk	Jacqueline Gray	Closed
<b>AP 3</b> HMRC will look at how best to provide guidance and support for IR35 recognising members concerns about confidentiality. An update will be provided at the next meeting.	Mark Frampton/Clare Sheehan/Mike Brown	Open. There will be ongoing work to look at how best to provide guidance.
<b>AP 4</b> To have a substantive discussion on the draft Terms of Reference at the next meeting.	Mark Frampton/Clare Sheehan	Closed
<b>AP 5</b> Further comments raised by the Forum on the Administrative Review report to be considered. HMRC will amend the report to reflect these and send back to Forum members for any further comments prior to publication.	Robert Burton	Closed
<b>AP 6</b> HMRC agreed to have a separate meeting to discuss the return requirements.	Robert Burton	Closed. A technical consultation meeting booked after the Forum meeting for 20/11/14

## New action points arising

<b>Action Point (AP)</b>	<b>Lead</b>	<b>Open/Closed</b>
<b>AP 1</b> HMRC will update the Forum on the final publication date of the administrative burden.	Clare Sheehan	Open
<b>AP 2</b> HMRC will make the agreed changes to the Terms of Reference.	Clare Sheehan	Open
<b>AP 3</b> HMRC will look at how best to provide guidance and support for customers on IR35 including the contract review service. Provide an update on the on-going work.	Mark Frampton/Clare Sheehan/Mike Brown	Open
<b>AP 4</b> HMRC to send guidance links on the employment intermediaries reporting requirements to members after the meeting.	Mark Frampton/Joanna Were	Closed.

## Annex 2

### IR35 Statistics

<b>Tax Year</b>	<b>IR35 yield</b>	<b>IR35 enquiries/enforcement actions</b>
2009/10	£155K	12
2010/11	£219K	23
2011/12	£1.2M	59
2012/13	£1.1M	256
2013/14	£430K	192

In addition to the tax voluntarily paid through IR35, and the compliance revenue the cost to the Exchequer of not having the IR35 legislation would be around £520 million a year.