

Changes to off-payroll working rules (IR35)

On 6 April 2021, the way contractors pay tax may have changed – know the facts.

What has changed

If you're a contractor who works through your own limited company or other intermediary, you may be affected, depending on your client.

- You provide services to a **public sector organisation of any size**. Your client will already be responsible for deciding your employment status for tax purposes and there are additional changes from April 2021.
- You provide services to a **medium or large-sized organisation outside the public sector**. You are no longer responsible for deciding your employment status for tax purposes – your client will now decide this for all payments made on or after 6 April, for work carried out on or after 6 April.
- You provide services to a **small non-public sector organisation**. Your limited company or other intermediary will remain responsible for considering the off-payroll working rules.

The changes do not apply to the self-employed.

How the changes may affect you

These changes may affect how much Income Tax and National Insurance Contributions (NICs) you pay, and how you pay. If you are affected, the organisation you are providing your services to (your client) will determine your employment status for tax. If your client determines that the rules apply to an engagement, they should give you a 'Status Determination Statement', which will explain their decision. You may be asked to provide your client with some information to help them make their determination.

If your client determines that your contract is inside the off-payroll working rules and you are employed for tax purposes, your client, or an agency in the supply chain, will deduct the necessary Income Tax and Employee NICs before they pay you. They will also pay HMRC Employers NICs and apprenticeship levy, if relevant.

You may still need to submit a tax return. If you are a student loan or post graduate loan borrower you will need to make your loan payments through Self Assessment. You are responsible for registering for Self Assessment but in some cases you may be automatically registered. Income and tax already paid arising from an off-payroll contract will be pre-populated, and will be shown in the employment pages of your Self Assessment return.

If your client determines that your contract is outside the off-payroll working rules and you are self-employed for tax purposes, your 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 into your intermediary

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.

This includes any decisions that clients may have already made to prepare for the April 2020 changes, which were delayed.

HMRC took a similar approach when the rules changed in the public sector in 2017: HMRC didn't open any historic off-payroll compliance enquiries for tax years before 6 April 2017 due to the decision of a public authority under those reforms.

If you have an ongoing compliance enquiry with HMRC, we will not ask for any information on decisions that clients made or were in the process of making for these changes as evidence for those ongoing enquiries.

Your rights

If you do not agree with your client's decision about your employment status for tax, you can raise your concerns through your client's status disagreement process, explaining why you disagree. All clients are required to introduce a process to ensure that they consider your views if you disagree with their decision. Your client will have 45 days from the date they receive your disagreement to respond to you. For more information go to www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm10015

If you are uncertain about a client organisation's size, you can formally request confirmation from them. The client has a legal obligation to respond. For more information go to www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm10011a

You will get relief on the tax paid when you withdraw the off-payroll income from your limited company or other intermediary, and you do not need to declare this income again when you withdraw it from your intermediary. For more information go to www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm10024

Where the off-payroll rules apply, this does not mean that you will be entitled to statutory payments or employment rights from the client you provide your services to or the agency that pays you. Salary paid to you from your own limited company may entitle you to statutory payments. For more information go to www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm10033a

What you need to do

Use our other support available to help you understand the changes. You can find it here: <https://www.gov.uk/guidance/help-and-support-for-off-payroll-working>

Talk to your client about what the changes mean for you.

We know some contractors may be changing the way you work. If you are changing the way you work:

- Don't be tempted by tax avoidance, including schemes that claim to ensure that you are not affected by the off-payroll working rules or that otherwise offer to increase your take home pay. If something looks too good to be true, it probably is. For more

information go to www.gov.uk/guidance/tax-avoidance-schemes-aimed-at-contractors-and-agency-workers

- Consider what to do with your limited company if you are no longer working through it. For example, you may want to consider whether you wish to close it down.
- Use our information on umbrella companies if you are thinking of working through an umbrella company: www.gov.uk/guidance/working-through-an-umbrella-company