

Abolish IR35? An ‘accident’ that isn’t going to happen, no matter how fast OTS goes

A [review of IR35](#) is like a review of the UK’s speed limits. Those limits might change, but the need for and concept of speed limits will never disappear.

Since the change of government in May 2010 and its [announcement](#) that there would be a review of small business taxation, the contracting media has been awash with stories claiming that IR35 is to be abolished.

As ever, the situation is a little more complicated than that. Yes, the Office of Tax Simplification ([OTS](#)) has been given a remit to examine IR35, identify and confirm reasons for its complexity and to recommend an alternative to reduce complexity, yet maintain tax yields. But, no, that’s not abolishing IR35 outright; far from it.

Just like speed limits, the [concept of IR35](#) is not going away. It was introduced to address abuses of the tax system, in a similar way to speed limits being brought in to prevent accidents and protect road users. So, a review of speed limits may see motorway speeds increased, but could equally result in rural and suburban speed limits being decreased.

IR35 is HMRC’s radar gun to catch disguised employees and ensure they pay a fair amount of tax, but it does not work particularly well. HMRC experiences difficulty using it correctly, and many contractors who are really disguised employees pay for highly developed ‘detectors’ and are adept at dodging its beams and escaping a ticket.

The [IR35 review by the OTS](#) promises to replace IR35, HMRC’s existing radar gun, but with something that works much more effectively. Let’s not kid ourselves that there will be no gun, no alternative, replacement or successor to IR35. And with ten years experience of using the old model, plus using the lessons learned in other nations with large flexible workforces – like the USA, Canada and Australia, you can bet that the upgrade, when issued to HMRC’s inspectors of taxes, will work a darn sight better.

Those who are currently caught by IR35 are very likely to still be caught by whatever replaces it.

So, if you are tempted by the erroneous claims that IR35 has been abolished to take the limited company route, or are already a [limited company contractor](#) and stop calculating your deemed payment when you know you may be inside IR35 and should be paying taxes like an employee, think again. Contractors who think it’s time to put their foot on the earnings accelerator are very likely to become involved in a nasty collision with IR35.

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