

Contractor doctor: does charging expenses to your client affect your IR35 position?

Dear Contractor Doctor,

This Monday I started my second contract direct with a client, and the contract was verified by my lawyer as outside [IR35](#). I can work from my home office or the client sites, and there may be some travel to other sites involved, which is fine, but the company have offered to pay expenses when I go to other sites, for example my travel costs and hotel expenses.

They said I need to include these on my invoice for the period in question (including VAT if my company is registered - which it is not yet!) although the payment of these expenses would be nice, I don't want to compromise my IR35 status in any way. Please can you advise if I can invoice for these expenses without compromising my IR35 status?

Thanks

Gethyn Ellis

Contractor Doctor says:

It is important to consider the issue of recharging of [contractor expenses](#) to a client in the context of the three key factors; [control](#), [mutuality of obligation](#) and the [right of substitution](#). Our [report](#) on the recent Alternative Book Company case highlights that, despite what the actual contract with the client says, ultimately it is the hypothetical contract that will [determine IR35 status](#).

As Andy Vessey of [Qdos Consulting](#) explains: "Recharging legitimate business expenses to a client by a service company is not a problem. It is the manner of how the expenses are charged that could lead to an issue with IR35.

"Within the scope of a normal contract for services between a client and a service company," continues Vessey, "expenses would normally be charged as disbursements in a regular sales invoice."

However, problems could arise when a contractor claims expenses using a separate process. "Some agencies do insist that expenses are claimed using a separate expenses sheet," says Vessey. "But because this process of claiming expenses, rather than through a sales invoice, is akin to how an employee would claim expenses, the contractor could be viewed by HMRC as having a striking similarity with employees."

“ It is the manner of how the expenses are charged that could lead to an issue with IR35. ”

Andy Vessey - Qdos Consulting

So, if charged as disbursements through a sales invoice, then legitimate business expenses like travel from the contractor's home office to client sites and accommodation and subsistence are unlikely to be viewed negatively in the context of IR35.

But, according to Vessey, there can be complications: "There are some categories of business costs that, if charged to a client, would indicate a relationship that could fall within IR35. Training is one example, which should be treated as a normal business overhead of the contractor's [limited company](#)." And overheads within the limited company demonstrate financial risk, which can contribute to putting a contractor outside of IR35.

Another area of expenses to be wary of is capital expenditure. Vessey concludes by saying: "If you tried to charge, for example, a piece of equipment like a laptop to one client, but the equipment is capital expenditure to be used generally within the contractor's business, this would certainly raise a few eyebrows with HMRC."

In conclusion:


- o Charging legitimate expenses does not bring you into IR35
- o Recharge expenses as disbursements on the sales invoice
- o Avoid using expenses forms from agencies
- o Be careful what you try and claim; travel and subsistence is OK, but general overheads like training and capital expenditure are risky.

Good Luck with your contracting!

Contractor Doctor

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Qdos Consulting is a leading expert in status and IR35. The company also consults in taxation and employment law and provides low cost business insurance for contractors. [Read Full Profile...](#)

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