

Contractor doctor: does IR35 apply for very short contracts?

Dear Contractor Doctor:

My partner is starting contracting and was working on a 10-day long contract, but this has now been extended twice so that the contract will last for seven weeks.

Can such a short contract be within IR35?

The contract with the agency states that the contractor has the right to send someone else to do the work. In this case will the contract be considered inside or outside of IR35?

Is it worth having the contract reviewed for such a short period?

Many thanks,

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Contractor Doctor says:

Period of Contract Time Doesn't Matter

Unfortunately, any contract, be it for an hour or for ten years, can be inside [IR35](#). The length of the contract period is not one of the terms under consideration. Indeed, a [recent judgement](#) by the Appeals Court referred to as [James v. Greenwich](#) upheld this point specifically.

If the Revenue decides to review contracts at the agency your partner is working with, then even this short contract could come under investigation. So it could be worthwhile to review it, but there is more to be considered here.

IR35 status depends on three main factors: [mutuality of obligation](#)--do you need work from this client and does the client need you; [control](#)--who is running the project; and, yes, [right of substitution](#)--could you be personally replaced by another contractor? You should know, though, that the Revenue and eventually the courts will look to see if the right of substitution is real or just on paper, and at whether or not you've exercised it.

Indeed, these three basics are only part of an [IR35 attack by the Revenue](#). First, the Revenue will get hold of the contract between your agency and the client, and will see if it suggests [IR35 status](#). If it does, the Revenue will then go to the client and interview the manager to see if the day-to-day operations on the site suggest your partner's being a 'disguised employee.'

It is the day-to-day operations that your partner is involved in that need to be reviewed with a lawyer, not just the contract. That is what will ultimately form the basis of an IR35 judgement.

If your partner works many short contracts, your partner should nonetheless go to a lawyer and have a draft contract with terms that are slated to be outside IR35 written up. Then, before accepting agency assignments, your partner should review the agency contract and see that it has the terms it should have to keep outside IR35. Also, your partner should be careful to structure the work personally so that the suspicion of IR35 status is avoided.

As we've explained, this won't be enough in itself to avoid an investigation. But it will help a great deal to convince the Revenue that pushing such an investigation forward will not be fruitful.

Good luck with your contracting!

Contractor Doctor

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