

Main reasons making a contract fail IR35

Introduction

There is often no single reason why a contract fails [IR35](#) and is normally a combination of reasons. One has to "stand back and consider the whole picture" to arrive at the decision.

This article discusses the main ir35 criteria and the reasons your contract might fail IR35.

Reason 1: Background/Previous Ruling

The Revenue has previously reviewed the client's records and advised that all future contractors should be treated as employees.

Reason 2: Contract

The contract is not genuine and has been copied from someone else or is a "do it yourself IR35 Contract". These can easily be spotted by the Revenue and disregarded as not being "a Live Contract".

Reason 3: Mutuality of Obligation

The client expects further work from you after the current contract. With regular work and "rolling Contracts" the Revenue will argue that you are an employee of the client. More on the [mutuality of Obligation](#).

Reason 4: Control

Clauses in the contract show that you have to regularly report to the client. The more control is mentioned in the contract, the more the Revenue will believe you are employed and not self-employed.

Reason 5: Substitution

The substitution clause, if present, is not genuine and has merely been added to "protect the contractor". You have not discussed possible substitution with the substitute.

Reason 6: Financial Risk

The contract does not show a price for the work and an approximate date for completion. It simply states you will work a set number of hours per week for an hourly rate.

Reason 7: Equipment

You only use the client's equipment, indicating a lack of financial risk. [This isn't one of the main points but worth considering.]

Reason 8: Part and Parcel of the Organisation

Your contract stipulates you have your own office, report to a manager and have access to all the client facilities. You have become integrated into the client's business.

Reason 9: Intention of the Parties

The contract does not stipulate that the agreement is between a self-employed contractor and the client.

Conclusion

These are the main ir35 criteria that could result in your contract failing IR35. Remember there is no single reason, or a points system used for failing. HMRC considers the 'whole picture'.

It is recommended you seek professional advice when reviewing your own circumstances and essential in disputes with HMRC.

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