

## Getting an IR35 free contract and passing IR35

### Introduction

Before signing a new contract is one stage [when contractors should consider IR35 issues](#).

This article explains these steps, and advises some areas to avoid.

### Steps to pass a new contract

Ensuring your contract passes IR35 involves a few tasks:

Getting the initial contract reviewed

Negotiating changes

Letter of confirmation of arrangements

Adopting correct working practices

Keeping a compliance file backing up your decision

### Get your initial contract reviewed

You can conduct an initial review yourself to [determine if your contract passes IR35](#).

However, when [getting your contract reviewed for IR35](#), you should seek professional advice from IR35 experts.

The contract will need to accurately reflect your working arrangement with the client.

If the contract review reveals a 'fail IR35' you need to start taking measures to change your contract from a 'standard agency contract' to one that reflects your self employed status.

### Negotiating changes

The most effective approach is to approach the agency to [negotiate your contract for IR35 compliance](#).

The most realistic way to succeed is to suggest the terms you wish to have changed in your existing contract.

Asking your lawyer to negotiate these changes on your behalf is a good idea if they also have some sales/negotiation experience.

### Letter of confirmation of arrangements

It is advantageous to get a client to sign a written document confirming the arrangements.

Your lawyer will be able to help you draft one of these for your client to sign.

### Align working practices with your contract

Ensure that your working practices change so that you run like a proper business and your working practices adhere to the content of the contract document.

Avoid becoming 'part and parcel' of the organisation by distinguishing yourself as an independent consultant.

If your working practices fail to adhere to the contract it could be deemed not to be genuine and ignored.

### Keeping an IR35 compliance file

It is advisable to keep a file detailing all the activities and paperwork to back up any 'outside IR35' decisions you have made.

The Revenue could chase you up to 6 years later, so it is important to have a history proving that you took 'reasonable steps' to reach your decision. Failure

to do so could result in large penalties if the Revenue win a dispute against your decision.

### **Things to watch out for**

Avoid buying 'IR35 proof' contracts. Passing IR35 is not a paper exercise, and the agency is unlikely to accept a new contract replacing theirs. There is no such thing as a standard IR35 free contract. You will need to spend money to get the contract right for each client and project.

Avoid taking advice from people not adequately qualified or having relevant experience. Ideally, use experts in employment law and ex Revenue inspectors.

Agents who tell you their contracts are IR35 proof - there is no such standard contract, and to reduce risk of exposure it might be worth taking a second opinion. See previous note!

HMRC advice. Don't use it. Taking advice from the 'other corner' is not advisable.

Published: Wednesday, January 24, 2007

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