

CAM Ltd v Revenue & Customs: 5 key IR35 lessons for contractors



The case of [Christa Ackroyd Media \(CAM\) Ltd v Revenue & Customs](#) appears to provide a clear-cut IR35 ruling, due to a heavy amount of control and [sufficient mutuality of obligation](#). However, this ruling – the first IR35 judgment delivered in seven years – was made straightforward largely by the numerous mistakes made by Christa Ackroyd and her associates.

Given that Ackroyd provided services through her own limited company at the request of the BBC, seemingly she wasn't well versed in [IR35 legislation](#). Nonetheless, Ackroyd's case, and subsequent tax bill exceeding £400,000, provides some important lessons for contractors.

1. Use qualified employment lawyers, not accountants

HMRC began its investigation into Ackroyd's affairs through a meeting agreed by her accountant, who was required to answer questions about her working relationship with the BBC. The answers provided led HMRC to deem Ackroyd to be caught by IR35.

HMRC is known to ask leading and manipulative questions to retrieve incriminatory answers when conducting IR35 investigations. But handling all correspondence in writing, rather than in person, with specialist guidance from an employment lawyer is essential to ensuring that the taxman's tactics don't come to fruition.

2. Ensure key witnesses are briefed and summoned

During its enquiry, HMRC failed to interview numerous witnesses whom Ackroyd had provided, resulting in a lopsided IR35 decision. Critically though, Ackroyd did not call any of these witnesses to her defence at the tribunal.

Anybody who can support your case in an IR35 tribunal must be summoned and briefed by your lawyer. Evidently, HMRC cannot be trusted, and neither has the inclination, to deliver a balanced outcome. As a result, it will overlook potential sources if it's in its best interests to do so.

3. Be careful of heavy control via external documents and procedures

The implied requirement for Ackroyd to comply with the BBC's Editorial Guidelines was a key factor in determining the court's decision to deem her subject to control, even though her contract with the BBC bore no reference to these guidelines.

This outcome shows that you need to consider more than the contract when assessing for IR35; your contract could be safe, but your client's internal procedures and practices could still be enough to land you inside IR35.

4. Avoid minimum hours or days in a contract – it implies MOO

Ackroyd's contract required that she provide her services to the BBC for at least 225 days of the year, in exchange for pre-agreed fees paid in monthly instalments.

The agreement to work a minimum number of days per year is a sure-fire indicator of mutuality of obligation (MOO) and should be avoided at all costs. Remember: contractors work on a project basis and get paid for work completed. The engagement ends when the project is complete.

5. Get the contract assessed before you start

Confirmation from her accountant that her affairs were in order before beginning the contract wasn't enough to save Ackroyd from IR35. Neither was lip service from the BBC in the shape of a guarantee of "independence" and "control".

The only way to [guarantee protection from IR35 is to get your contract assessed professionally](#) before you sign anything. This process needn't be costly or onerous.

With [our free test tools](#) you can secure a comprehensive IR35 review for free within 15 minutes. If you pass, certification is available instantly. If your contract needs repair work, you can access a bespoke repair kit which is based on your responses. Should you need further help, you can upgrade to gain access to our specialist lawyer who has more than a decade's experience of dealing with hundreds of IR35 cases.

Passing this test is the essential first step to ensuring you steer clear of IR35, and avoid a costly tax bill at the hands of HMRC.

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