

Reviewing your contract for IR35 status – a guide for contractors

Contractors who have successfully won through to [contract negotiation](#) stage by using a [killer CV](#) and an [effective interview technique](#) must ensure that they have an IR35 contract review conducted, before they sign it, to check their [IR35](#) tax status.

Why is it important to review my contract?

Failure to have the contract reviewed could leave the contractor exposed to subsequent claims by HMRC for back taxes, interest and [IR35 penalties](#), should the contractor be investigated. the [financial impact of being caught by IR35](#) is considerable.

Contractors that overlook reviewing their contract risk losing money in the long term, particularly as IR35 contract checks can be relatively inexpensive. Importantly, such reviews can also be used to demonstrate to HMRC that the contractor is taking '[reasonable care](#)' with their tax affairs.

What is 'reasonable care' for contractors?

HMRC require that all taxpayers, contractors and otherwise, demonstrate 'reasonable care' in the management of their tax affairs. Failure to take reasonable care could result in a range of sanctions from fines to even imprisonment in extreme cases.

True to form, however, HMRC fails to provide a definition of what reasonable care might entail, but having a contract reviewed by an IR35 expert clearly demonstrates that the contractor is taking a high degree of reasonable care to determine their tax status.

What are the contract review options?

Contractors have a range of options when considering what actions to take prior to [signing a new contract](#):

Not reviewing the contract, just signing it (which happens with worrying frequency)

Reviewing the contract themselves

Getting the contract reviewed by an IR35 legal specialist

Using [HMRC's contract review service](#).

Choosing not to review your contract and signing it regardless is the worst decision to make – you will almost certainly end up spending more money in the long term. The contract may be inside IR35 – something a review by an expert would easily catch - and the contractor would not know until they were investigated, possibly years down the line.

It is possible for some highly experienced contractors with years in the business and a good knowledge of contract law and employment law to self-evaluate their contract, but this is not recommended, especially as self-review may not satisfy HMRC that the contractor has taken 'reasonable care' over their tax affairs. Legal firms review contracts for a living and they know exactly what to look for. Don't take any chances and leave it to the experts.

How to choose a contract review specialist

Contractors should ensure that they choose a professional adviser with some or most of the following characteristics to review the contract for IR35:

Legal expertise in employment law

Expertise and a track record in evaluating IR35 contract risks, preferably with litigation experience

Specific sector experience in the contractor sector, with past and existing contractor, agency and end-user client customers

Ex-HMRC inspectors can provide expert IR35 contract reviews.

Ideally, contractors should choose a lawyer or legal consultant with specialist knowledge, as IR35 is an employment law issue. High street solicitors are highly unlikely to have the specific expertise a contractor needs to be comfortable with having their contract reviewed for IR35 status.

Very few accountants are genuinely qualified to offer IR35 advice, although most will offer to review contracts anyway. Accountants are experts at tax and accounting, not employment law – a contractor would not use their lawyer to complete their tax return, so they shouldn't use their accountant for their legal issues!

Contractors should never consider using the [HMRC contract review service](#). It's as if the contractor is waving a flag saying, 'Please come and investigate

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me! Plus, if HMRC is asked if there is any doubt about IR35 status, they will almost certainly say, 'There's no doubt – you are inside IR35 and should pay tax and National Insurance Contributions as an employee'.

Next steps after a contract review

In many cases, the IR35 contract specialist will confirm to the contractor that their new contract is outside of IR35 as it is possible to be before the contract starts, and the contractor can sign the contract and start work.

However, if the contract review process throws up some issues, then the contractor would be wise to address these and possibly enlist the support of the legal specialist to assist with contract negotiations to lower IR35 risk.

If the agency or end-user client will not budge on negotiations over the contract, yet the contract is clearly outside IR35, then there are other strategies the contractor can adopt to demonstrate through working practices that they are indeed outside IR35. One of these is using a [confirmation of arrangements](#) letter.

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