

## Contractor doctor: does length or number of contracts affect IR35 status?

Dear Contractor Doctor,

I started contracting in 2005 and worked from April 05 to April 06 for a UK bank. Then I contracted from November 06 to November 07 for another UK bank. For both of these contracts I used an umbrella company.

I now have the opportunity to work on 2 part-time contracts for 2 different companies simultaneously.

I have read some of your very informative website information but would like to know if my position with regard to IR35 would change in this new situation. Obviously the main reason for asking is to see if I would be better off creating a limited company and this is an opportunity to pay less tax (possibly by not being inside IR35).

Thanks,

Ashley

Contractor Doctor replies:

From the way your contracting business is developing, it sounds like starting a **limited company** would make the most sense. You obviously are building a business that you control yourself.

But from the point of view of the taxman, it doesn't matter how many contracts you have, nor how long you work on a given contract. You could be inside **IR35** on both contracts, or on just one of them

As Adrian Marlowe, managing director of the Hove-based legal consultancy **Lawspeed** which specialises in recruitment affairs, points out, the **factors that determine IR35 status** have nothing to do with how long contracts last, nor how many contracts you have. The Revenue will look at each contract separately, to see:

Are you working on a specific project?

Is there **Mutuality of Obligation**, i.e. do you have to work for this company regardless of what work there is to do?

Do you have to do the work personally, or do you have the **Right of Substitution**, meaning that you can send another worker?

Are you deciding how, when and where the project is done, or is this being decided by the client?

Are you using your own equipment?

These are the main factors that HMRC will consider. Now having two contracts does show that you seem to be running your own business, and it's a small item in your favour. But if, when you go to each of your clients, you are just doing whatever the client tells you and handling any work that comes down the pipe, then running your own business will be a small point indeed.

So when you consider your tax situation, look carefully at the language in your contracts, and at the day-to-day handling of your work. Next time have your **contracts reviewed** to see if they have the language they should to show your independence, and make sure that you are **in control** of what you are doing. You will then be fairly sure to be outside IR35.

Good luck with your contracting!

Contractor Doctor

Published: Thursday, December 13, 2007

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