

HMRC IR35 information and advice - a guide for contractors

Contractors can find a wealth of information, guidance and advice about IR35 on HMRC's website, and there is also an IR35 helpline and Contract Review Service. The online resources include the manuals that HMRC inspectors use to help determine a contractor's IR35 status.

However, the information available from HMRC should be treated with some caution, even though it is mostly accurate. This is because there are many grey areas when IR35 is applied, and HMRC's position may not always be the correct one under the law. Contractors should generally avoid its Contract Review Service.

Despite this, HMRC has provided various examples of where it believes IR35 does and does not apply, so its guidance is useful to help contractors gain insights into how HMRC might apply IR35 to their personal circumstances.

Contractors should not use HMRC's guidance as a substitute for adopting IR35 best practice, or as an excuse not to invest in professional contract reviews and taking out investigation insurance. Both are readily affordable from many high quality providers.

HMRC has published a single, comprehensive PDF guide

In response to the work of the [IR35 Forum](#), in June 2014 HMRC created a single comprehensive IR35 guide available as a PDF download, [Intermediaries Legislation \(IR35\) – Working through an intermediary, such as a Personal Service Company](#).

This guide is a good starting point for any contractor new to IR35, and HMRC's IR35 resources. It includes links to the relevant online resources, which includes additional guidance, manuals and other related tax legislation.

This guide takes a contractor systematically through the process of what IR35 is, working out whether it applies, what to do if IR35 does apply and how HMRC runs its IR35 investigations.

HMRC's IR35 Helpline and Contract Review Service

The PDF guide above also explains that contractors can call an [IR35 Helpline](#) to gain free advice about their IR35 status. HMRC claims that the advice line is confidential and does not share any information with its compliance teams.

Despite this claim, if contractors feel they need to call HMRC, they would be safer providing as little identifying information as possible. The same is true of the Contract Review Service, which could even pass a contractor's details over to an IR35 specialist if its findings are disputed.

Websites such as ContractorCalculator provide a wealth of free information about IR35, and investing in a contract review or status opinion from an independent IR35 consultancy is money well spent.

HMRC's online resources

HMRC's website is notoriously difficult to navigate, and when searching it is far more effective to use Google to search the HMRC website.

Furthermore, at the time of writing, HMRC is moving its resources to the gov.uk web platform from HMRC's existing hmrc.gov.uk website. As a result, some information can be found on the new platform, and some remains on the old website.

HMRC has an [IR35 index page](#) that provides an overview of the legislation and a list of links to further resources. These links include:

[When IR35 applies](#), expanding on what is available in the PDF guidance

[Occupations affected by IR35](#), that provides a brief listing of the types of workers affected, including the core contracting disciplines of IT, engineering, construction and interims

The [consequences of ignoring IR35](#), which highlights that if a contractor gets caught inside IR35, they may have to pay back taxes, National Insurance Contributions (NICs) interest and penalties

Updated advice on what contractors can do if they [disagree with HMRC finding them inside IR35](#). The Special Commissioners have been replaced by [Tax Tribunals](#). If a contractor find themselves subject to an IR35 review, they should immediately seek professional advice

[Guidance for limited company contractors and partnerships](#), and an [explanation of how the deemed payment works](#) for contractors definitely inside IR35

An [IR35 deemed payment calculator](#) that automatically downloads an Excel spreadsheet, and further advice on how to [make a deemed payment calculation](#)

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A link to [HMRC's Employment Status](#) section, that provides a wealth of detailed information about a worker's employment status.

HMRC's manuals: ESM0001 and ESM 3000

Possibly the most useful information HMRC makes available on its website is its own manuals that are aimed at its inspectors. This information is comprehensive and at times complex, so not for the faint hearted.

HMRC's [ESM001 Employment Status Manual](#) provides "guidance on issues relating to the employment status of individuals". The whole world of employment status is much broader than contractors and IR35, but the same principles of determining employment status apply to IR35. The [ESM700 Case Law](#) summaries are particularly useful.

[ESM3000 – IR35 Intermediaries Legislation Contents](#) is HMRC's IR35 bible. This is definitely for IR35 groupies only, but it goes include good coverage of the legal principles in the Considering the Evidence subsections.

Employment Status Indicator (ESI) online interactive test

HMRC also provides an online [Employment Status Indicator](#) (ESI) designed, as its name suggests, to give contractors an instant opinion of employment status – whether they are an employee or self-employed. It is completely anonymous.

However, whilst the online tool is potentially a useful guide, the outcomes can be ambiguous, lack interpretation and some results are confusing because they do not include an explanation of the terms used.

The tool is also not designed specifically for IR35: it just considers employment and self-employment. Contractors will gain a much greater understanding if the use ContractorCalculator's free Online IR35 Test. This is based on the results of over 1000 IR35 cases, and powerful algorithms that take into account case law specific to IR35.

Contractors have the option of going to HMRC's free helpline or free Contract Review Service, but the benefits are highly questionable. Contractors would benefit far more from an independent review by an IR35 specialist.

Similarly, the information contained on HMRC's is comprehensive and underpins how a contractor's IR35 status will be determined, but does not allow for the grey areas and is mostly not written with a contractor audience in mind. An alternative is to use ContractorCalculator's extensive guidance as a starting point.

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