

IR35 insurance – cover yourself with contractors' tax investigation cover

Contractors' tax investigation insurance is a worthwhile investment for those concerned that their contracts might be deemed by **HMRC** as to be within **IR35**. But as with all policies, contractors should ensure their IR35 insurance is actually covering them for what they need.

According to research commissioned by contractor industry body the Professional Contractors Group (**PCG**) there are an estimated 1.4m contractors and freelancers in the UK. So the chances of a contractor being caught in HMRC's 1,000 **IR35 investigations** every year seem slim.

But for those 1,000 contractors who come under the spotlight, they quickly discover that, under the UK's tax laws, they are guilty until proven innocent. So they not only have the burden and stress of proving themselves innocent, but will also have to find the cash for a professional defence, which can run into tens of thousands of pounds.

So IR35 tax investigation insurance is a good option. There are a large number of products available, but contractors should be careful to read the small print.

Tax investigation cover – what's included?

Basic tax insurance cover for contractors will pay for professional assistance dealing with HMRC inspectors in the event of an investigation. But many policies cover the cost of the policy writer's preferred adviser, and not the contractor's own accountant. This can lead to unnecessary complications and further expense for the contractor.

Using an adviser who is not familiar with the contractor's financial history does not always work in favour of the contractor, and an accountant expert at handling investigations for small businesses might not be the best equipped to deal with a contractor's IR35 case.

In addition, some tax insurances will only cover the contractor for the initial stages of an inspection and may not include costs for an appeal if the case is escalated, nor cover for extra tax if HMRC presents the contractor with a large bill.

IR35 contract appraisals

HMRC often initiates investigations with an employer's PAYE audit, which then gets referred within HMRC to an IR35 specialist. This is likely to happen if there is any suggestion that the contractor is a **disguised employee** – this is where serious problems can arise.

Some service providers offer to check contracts for their IR35 status, assess working practices, and provide investigation insurance with a guarantee that they will handle any resulting action by HMRC if the contract is challenged.

There are normally caveats imposed by the service company on how the contractor should conduct themselves with the client. For example, volunteering to organise the Christmas party, thereby implying the contractor is **part and parcel** of the client's company, would invalidate their protection!

Comprehensive IR35 cover

Comprehensive IR35 insurance is also available – for a price. The basic cover will pay for an expert defence in a tax tribunal and any subsequent court action, but not the back taxes, penalties and interest.

Contractors seeking total peace of mind can invest in a comprehensive package, such as the Tax Liability Cover (TLC35) provided by contractor services firm **Qdos Consulting**.

Not only can this insurance cover the contractor for expert representation in the event of a PAYE compliance review, but for additional premiums contractors can also take out cover for a range of HMRC investigations, IR35 income tax and National Insurance Contribution liabilities, plus interest, penalties and back dated tax years.

Check the small print

Whichever tax investigation cover is selected, contractors must ensure they check the small print in the policy document and ensure they fully understand what the insurance covers, and what it does not.

It is also essential to keep to the terms of the policy and not carry out any actions that might void the insurance. This is not just prudent from an insurance point of view, but is also likely to ensure the contractor remains outside IR35.

Contractors are likely to have to pay in the region of £100 to £600 per year for their tax investigation cover. Figures depend on the policy and level of cover required, plus, as with other insurances, on the contractor's history. But even though the chance of being investigated is small, such sums are a small price

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for contractors to pay for the reassurance that they will have expert assistance, and the money to buy it, when they need it most.

Tax investigation comes as standard with membership of the PCG, which has a track record of fiercely defending its contractor members from HMRC investigations, and has funded numerous IR35 defences in the courts.

IR35 Test

Contractors can get a free initial assessment of their IR35 risk using ContractorCalculator's free [IR35 Test](#).

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