

## Contractor Doctor: Why are agencies requesting National Insurance (NI) numbers?

Dear Contractor Doctor

I am an IT contractor and trade using my own limited company. I've secured work via the same agency for many years. Because they have all the details of my limited company on file, I have not had to send my recruiter any new information for a long time apart from CV updates.

But just recently, I was asked for my personal National Insurance (NI) number, alongside some other quite personal information that was all about me and nothing to do with my limited company. I'm concerned that sharing this information could have an impact on my [IR35](#) status.

What legislation means that my agency is now asking for my National Insurance (NI) number?

Thanks,

Charlie

Contractor Doctor says:

"Recruitment agencies are subject to the requirements of the [Onshore Employment Intermediaries legislation reporting requirements](#)," explain Seb Maley, operations director of specialist IR35 consultancy [Qdos Consulting](#).

"Also known as the [False Self-Employment legislation](#), these regulations came into force in April 2015 and require recruitment agencies to submit a report to HMRC about every contractor they hire who does not pay income tax and National Insurances Contributions (NICs) via a Pay As You Earn (PAYE) payroll. This report includes personal information about each worker, including NI numbers."

According to Maley, the rules apply to all 'employment intermediaries' such as agencies, as well as contractors who subcontract, so there is no escaping the rules. If a contractor wants to continue working via agencies, they must provide the information required.

### Employment Intermediaries legislation reporting does not mean IR35 applies

Although, as Maley explains, there is little direct IR35 risk as a result of complying with the legislation, it does provide HMRC with a list of targets: "Contractors won't find their IR35 status compromised in any way by providing personal information to the intermediaries they work through.

"As long as contractors maintain IR35 best practice by having contracts reviewed, establishing working arrangements and taking out [investigation insurance](#), they should not suffer any increased IR35 risk.

But Maley adds that the False Self-Employment reporting rules mean that HMRC have a highly targeted list of contractors to investigate: "The rules require employment intermediaries to submit a list of contractors to HMRC that details exactly who the directors are and how much they have been paid. This presents HMRC with a list of potential investigation targets."

### Contractors should beware of scaremongering by service providers

Maley has also noticed that some less scrupulous services providers have used the introduction of the new rules to drum up new business: "Some service providers have been advertising Onshore Employment Legislation 'compliant' solutions.

"They play on the fact that the False Self-Employment legislation requires the hirer to prove a lack of supervision, direction and control (SDC), and that if this cannot be proved then the contractor is inside IR35.

"However, the False Self-Employment legislation specifically excludes limited company contractors and [umbrella company contractors](#) are already paid via PAYE, so are also excluded.

"Further investigation reveals these businesses to be offshore tax avoidance solution providers. Contractors should ignore this scaremongering – by joining an offshore scheme they could end up in a worse tax position than they were before."

[Accelerated Payment Notices](#) and [Follower notices](#) now mean that contractors who join a tax avoidance scheme, which is what most offshore solutions offer, can end up paying out more tax than they would do if they remained a limited company contractor.

Maley concludes: "The core legislation should not affect limited company contractors. In terms of key IR35 areas, best practice still applies and contractors should ensure their contracts and working practices are confirmed when they start supplying personal information to agencies."

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