



whitepaper | 2022

IR35 behaviours

It's been over a year since the IR35 changes were introduced, are you compromising your talent acquisition strategy by providing a lack of choice for your flexible workforce?

It's now over 12 months since the Off-Payroll Working IR35 reforms impacted the private sector. Now is a good time to reflect on how the market reacted, and over a year on, how businesses are reviewing their approach to their contractor talent base. Let's have a quick recap of the key change the legislation brought for hirers.

Since April 2021, contractors can no longer choose their own IR35 status. Instead, the responsibility for determining status was moved to the hirer.

The hirer needs to decide if the worker is inside or outside IR35 and then inform the supply chain of their decision. This decision on status is very complex and many hirers have had concerns about getting the decision wrong and the potential implications for them financially and reputationally.

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Looking back, it is clear that the vast majority of hirers have responded to the changes by adopting a risk averse position. Many clients have chosen to simply avoid the question of determining status all together, and instead opted to classify all contractors as inside IR35.

The consequence of this significant tax increase for contractors has led in many sectors, to an increase in contractor pay rates as hirers compete for talent. The shortage of talent during a surge in recruitment post the pandemic has further fueled pay rate inflation.

Consequently, we have seen the vast majority of contractors being forced to change the way they are engaged and stop using their personal service companies (PSC's). Instead, a significant number of contractors have been "taken on the books" and offered fixed-term or permanent employment contracts by hirers.

For many HR departments in April 2021, offering contractors full-time employment with them directly felt like the lowest risk decision in light of the significant financial and reputational risks of getting IR35 wrong. Whilst this may have been a quick fix, hirers are now understanding that moving contractors on to fixed-term contracts, increases their employment risk rather than engaging them via a contractor management service such as an umbrella company. Adding contractors to a permanent payroll can also increase complexity as it dramatically increases onboarding and offboarding as well as often complex pension arrangements and obviously the heightened risk of employment claims.

At a time when the recruitment market is red hot with businesses looking to scale after the pandemic, many of these companies are finding that those contractors are leaving their fixed-term contracts to seek contract work again. For many contractors, the reason they chose contracting was because of the variety of work they could take on and the flexibility to choose when and how they wish to work, not to simply reduce their tax bill.





For hirers, they are also realising that the need for a degree of flexibility in their workforce is key now that many business strategies were ripped up in 2020 and companies are reshaping the size and make-up of their workforce to ensure growth or even survival.

Some tech and other businesses now have less than 50% permanent headcount.

At the start of 2022 we saw many hirers, with an inhouse recruitment focus, looking to engage contingent workforce management specialists to ensure they can offer a full range of compliant payroll offerings to attract the right quality and mix of talent. The right partner can facilitate the IR35 determination process and then provide the full range of payroll options. They can also offer full indemnities against the risks associated with compliance, including IR35, so a hirer can have the assurance they are mitigating risk and not compromise on talent acquisition.

So, what does a full range of payroll options look like?

fixed term contract:

This can of course be the most suitable option for some contractors. There is however no need to contract with these workers yourself, and the right workforce management partner should offer to engage these workers directly to remove you from risk and the burden of running payroll which can be complex. For example, many contractors now expect to be able to pay significant sums into their own nominated pension provider and this significantly increases the payroll burden for businesses.





psc's (inside or outside of IR35):

It is perfectly possible to still pay contractors via their limited company. If you have an appropriate status determination then your workforce management partner should be prepared to be the fee payer and carry the risk. Even if a contractor is determined as inside IR35, their PSC can still be paid and your partner will deduct the necessary taxes and pay across to HMRC.

CIS:

For those hirers in the construction industry, the Construction Industry Scheme or CIS for short allows any self-employed person to have tax deducted by an appropriate payroll partner and make payments to HMRC on the contractor's behalf. The remaining tax liability for the year is then settled via the contractor's self-assessment tax return (SATR).

Choosing the right workforce management partner can ensure that a hirer provides a full range of choices to a contractor when looking to engage them on business-critical projects. The right partner should also be prepared to indemnify the client from risk to ensure the business can be assured they are compliant. IR35 may have disrupted the market, but as the dust settles the most agile hirers will beat their competition by attracting the best contractors to deliver business goals in 2022.

umbrella employment:

In umbrella partner, or a preferred supplier list of chosen providers, can help give contractors choice in how they wish to be paid. Your workforce management provider should be able to help guide you on a suitable process to ensure you pick compliant providers to work with and avoid rogue suppliers who increase your compliance risk.





about **giant precision**

Our flexible proprietary software and managed services platform, **giant precision**, can manage contractors throughout their life cycle, from candidate attraction, screening and onboarding to timesheet management, billing, employer of record, payroll and payments. In the UK and internationally.

Unlike most MSP's, our **giant precision** platform allows organisations with any number of contractors to benefit from a speedy implementation at no cost. So, if you have 5 or more contractors, we can help.

We take compliance with the complex regulations governing contractors very seriously. To underline our compliance commitment to you, we contractually indemnify you against any tax and employment risk when we manage your contractors.

And we are independent. Unlike others, we do not provide agency recruiting services and we have no affiliated companies that do either. Our neutrality ensures we advise you only, on what's best for you and your contractors.

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