



Date 23 January 2020
Our Ref

Dear Sir or Madam

Off-payroll working rules (IR35) due to be implemented from April 2020

There are some important changes to employment taxes due to come into effect from 6 April 2020.

Based on information we hold about the size of your organisation, it is possible that these changes may affect you.

The changes will only affect you if you have, or will have, individuals (e.g. contractors) working for you off-payroll through their own intermediary, usually a limited company, and often known as a Personal Service Company (PSC).

This letter explains these changes, what you need to do and where you can find further guidance.

What are the changes and who do they apply to?

The off-payroll working rules have been in place since 2000 to make sure that individuals who work like employees, regardless of whether they work through a structure such as a PSC, pay broadly the same Income Tax and NICs as employees. These rules are commonly known as 'IR35'.

From 6 April 2020 the way these rules are applied is due to change for medium and large organisations. If your organisation meets the size criteria it means that you will need to:

- decide whether an individual working for you off-payroll through their own intermediary is employed or self-employed for tax purposes
- provide the worker and, if applicable, the agency or other organisation you contract with, your determination and respond to them within 45 days if they disagree with it
- ensure that the necessary income tax and NICs are paid to HMRC if the worker is employed for tax purposes and your organisation pays the worker's intermediary direct

Size criteria

If you are a company or limited liability partnership (LLP) you will need to apply the off-payroll working rules set out above if you meet two or more of the following conditions:

- an annual turnover of more than £10.2 million
- a balance sheet total of more than £5.1 million
- more than 50 employees

If you are not a company or LLP but have an annual turnover of over £10.2m, you will also be in scope.

How to prepare

Set out below are 5 steps you need to take between now and April 2020.

- 1 Look at your current workforce (including those engaged through agencies and other intermediaries) to identify those workers who are supplying their services through PSCs, partnerships or other individuals.
- 2 Determine if the off-payroll rules will apply for any contracts that will extend beyond April 2020 - i.e. whether individual contractors should be considered employed for tax purposes. You can use HMRC's Check Employment Status for Tax (CEST) tool to do this: www.gov.uk/guidance/check-employment-status-for-tax
- 3 Start talking to your contractors now about whether the off-payroll rules will apply to their role. Enclosed is a factsheet that we would like you to share with all of the contractors you engage. A pdf of the Contractor Factsheet can be found on: www.gov.uk/government/publications/off-payroll-working-in-the-private-sector-ir35-budget-2018-brief
- 4 Before April 2020, put in place robust processes to determine whether the off-payroll rules will apply to any existing and future engagements. These processes might include identifying who is responsible in your organisation for making determinations and how payments will be made to contractors within the off-payroll rules.
- 5 From 6 April 2020 you will need to provide a Status Determination Statement (SDS) explaining the reasons for your determination. You must provide the SDS to the worker and the first party in the labour supply chain; the organisation you contract with (usually the agency or the worker's intermediary if there are no agencies in the chain). Unless and until you have provided the SDS to the worker and the organisation you contract with you will be liable for any Income Tax and NICs due.

What support and help is available?

Check Employment Status for Tax (CEST) tool

HMRC has created the Check Employment Status for Tax (CEST) tool to help you make status determinations. The output that CEST generates is acceptable as your Status Determination Statement.

The CEST tool helps individuals and organisations decide if a worker should be treated as employed for tax purposes. It takes users through straightforward step-by-step questions. HMRC has launched an enhanced version of the CEST tool.

HMRC stands by the results given by the tool, provided the information entered is accurate and it is used in accordance with our guidance.

The CEST tool and guidance on how to complete it can be found at:

- www.gov.uk/guidance/check-employment-status-for-tax
- www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm11000

Webinars

HMRC will be delivering a series of webinars on the changes. To book, and for more information on scheduled dates, go to www.gov.uk/guidance/help-and-support-for-agents

More information on the off-payroll changes

You can find more information on GOV.UK, go to www.gov.uk/guidance/april-2020-changes-to-off-payroll-working-for-clients

Off-payroll reforms review

Finally, as you may be aware, the Government has launched a review of reform to the off-payroll working rules to determine if any further steps can be taken to ensure the smooth and successful implementation of the changes due to come into force in April 2020.

In the meantime, HMRC is continuing with its programme of education and support activities, helping customers to prepare for the reform

If you need further advice, please speak to your tax advisor and share this letter with them.

Yours faithfully

HMRC Off-payroll Working Programme Team