

wishu

IR35

GUIDE

FOR CREATIVE
COMPANIES

IR35?

Changes to the IR35 Tax Legislation have taken into place starting the 6th April 2021 and if you work with creative freelancers, or are a creative freelancer, they may impact you.

What is IR35?

The IR35 legislation was originally introduced in 2000 as a means of tackling tax avoidance by limited companies. IR35 was designed to assess whether a freelancer is a contractor, or working as a 'disguised employee' working under a ltd company for tax break purposes. [Movements of staff and volunteers](#)

What changed on the 6th April 2021?

Making the decision as to whether a freelancer is in or outside of IR35 became the job of the end user e.g the business that is using the freelancer.

INSIDE OR OUTSIDE?

Inside?

Points towards employment and you will have to pay tax and National Insurance accordingly in the same way traditional employees do.

Outside?

Points towards self-employment.

The changes that came into effect mean that if the end user (client/recruiter/company hiring) deems the contract inside IR35 the payer, which could be the end user or a recruiter, has to deduct the Tax and National Insurance (NI) that is due from the amount paid to the freelancer. Accounting these deductions straight to the HMRC. Although, if the project falls outside of IR35, the payer can pay the freelancer their gross amount and the contractor would then deal with their own tax.

Status determinations

If the business working with a freelancer is a medium or large company then they will have to make a status determination before working with the freelancer. The status determination needs to outline whether the person is a deemed employee (inside IR35) or truly self-employed freelancer (outside IR35).

There are some rules for what a status determination should look like:

It has to be in writing (even email will be fine)

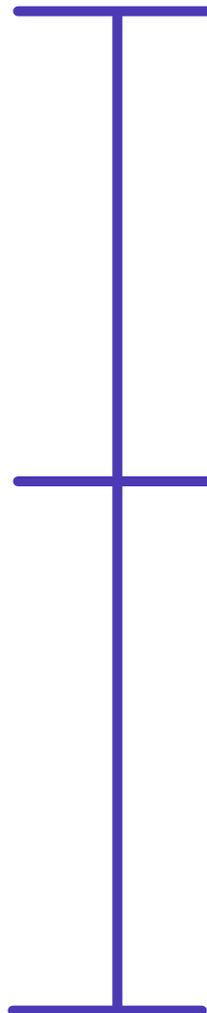
It has to identify all of the parties in the supply chain

Names and addresses of those involved in the supply chain should be included alongside a description of their role

The overall finding (whether they are inside/outside IR35)

A reasoned argument to support the outcome

An appeals process for the freelancer for if they disagree with your decision



Status determination reviews and appeals

If a freelancer disagrees with the decision made they can challenge it and put an appeal to the business. The business will then have 45 days to review their decision.

Obviously, this is an extra admin job so it's recommended to pull together a written policy for appeals and delegate this job to somebody specific.

What should you consider when reaching a decision?

The Gov.UK website has created a CEST tool which will give you an indication as to whether or not the contractor is inside or outside IR35. Make sure to keep a copy of the reference code saved in case of any disputes.

MORE INFORMATION ON IR35

Read these articles:

[Confused? Is your project Inside or Outside IR35?](#)

[Breaking down IR35 for agencies](#)

[The nightmares of IR35: How to know you're following the right steps when hiring creatives for projects?](#)

[How to structure your project brief job listing](#)

Wishu Office,
Protein Studios,
31 New Inn Yard,
London EC2A 3EY

Hello@wishu.io