



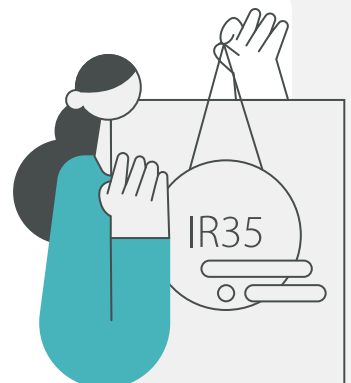
How to build teams and develop tech solutions in an IR35-friendly way

A helpful Deazy guide to navigating off-payroll UK tax reforms



This Deazy document should only be used as a guide – if you're unsure about any of the details or are assessing the status of your off-payroll contractors, always seek professional advice.

- See if IR35 applies to you
- Check whether your contractors fall “inside” or “outside” IR35
- Reduce IR35 risk without compromising on quality
- Discover tech solutions enabling you to operate outside IR35
- Find out how the Deazy way can help you scale, stress free



A huge tax shake-up in a year of unprecedented change.



Are you ready?

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The way we work, shop and play has changed forever. A global shift to digital, accelerated by the pandemic, has put immense pressure on businesses of all sizes to enhance their technological capabilities and speed up the development of digital solutions and products. The challenge: at exactly the time most businesses could probably have done without it, a sizeable and complex change in UK tax law has come into force, potentially impacting the freelancers and contractors who organisations rely on to get this critical work done.

That's why we put together this Deazy guide to help you navigate the changes to UK rules on off-payroll working, otherwise known as IR35. Over the next ten pages, we'll answer your biggest questions on these new regulations, so you can stay IR35-friendly while maintaining the agility and the access to talent that's vital to digital-first companies.



Andy Peddar

CEO



IR35: the basics.

Starting with a lightning-quick definition...

OK, so “lightning-quick” is a bit of an overpromise. Like any tax regulations, IR35 is dense, nuanced and open to interpretation – but let’s look at the basics and turn those grey areas into plain-speaking black and white.

► What is IR35?

Apart from being a headache for contractors and those who rely on them, IR35 is another name for off-payroll working rules in the UK. Its first aim is to combat tax avoidance by contractors who HMRC considers to be “disguised employees” – individuals who work like payroll staff but, because they provide services via a personal service company, pay corporate rather than employment taxes. And secondly, it applies to medium and large-sized companies who hire them.

► Why did it change?

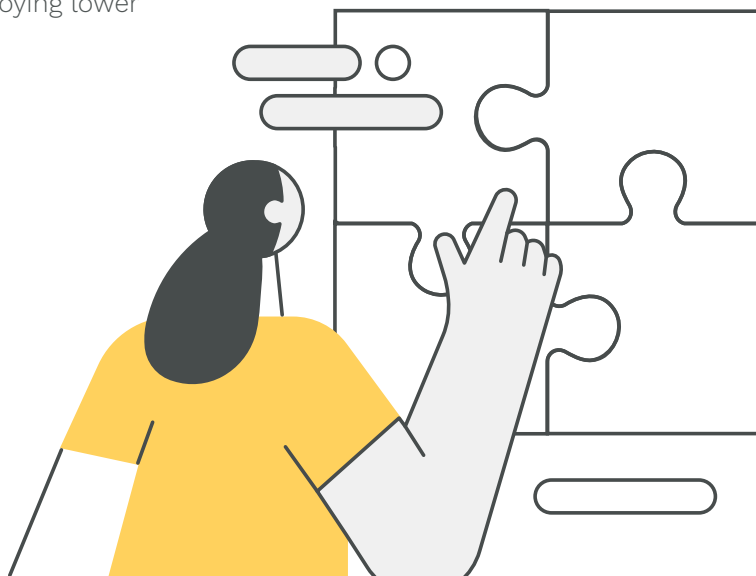
HMRC estimates that only one in ten off-payroll workers in the private sector are paying the tax they should be. IR35 is a bid to rebalance its books. The UK government believed too many individuals were essentially “gaming” the tax system by leaving full-time jobs only to return to the same roles under the aegis of a limited company – paying themselves in dividends and enjoying lower tax rates as a result.

► When did it come into effect?

IR35 legislation has been around since 2000 when Gordon Brown, the then Chancellor of the Exchequer, introduced measures to crack down on off-payroll working in the UK. Originally the onus was on the contractor to define their IR35 status, but in April last year, this responsibility shifted to the employer. Now, it’s up to medium and large-sized companies to determine a worker’s employment status for IR35 purposes.

► Who does it affect?

Under the changes, medium and large businesses (see table, next page) who engage with contractors who operate through personal services companies are required to determine whether the engagement with a contractor is “inside” or “outside” IR35. If it is “inside” IR35, the hiring business is required to make PAYE deductions.



IR35: the basics.

Starting with a lightning - quick definition...

► What about companies developing digital products and services?

Contractors working through intermediaries have long been commonplace for companies looking for IT and tech solutions, providing the agility and up-to-date skills required for this fast-moving sector. For businesses engaging them, the impact of IR35 is significant. But it shouldn't stop you being competitive; you just need to assess your current set-up and the status of any contractors.

► What will happen to a company if they break IR35 rules?

Businesses engaging contractors through personal service companies are legally required to deduct National Insurance and Income Tax if they deem the engagement to be "inside IR35".

The government has said it will take a "light-touch approach" for accidental errors in the first year. But after that, companies who fail to fall in line face penalties to the tune of unforeseen tax repayments, late-payment interest and quite possibly a hefty fine.

What's the good news?

With a little care and due diligence, you can still outsource projects and stay in HMRC's good books. This could mean reassessing how you interact with your suppliers, or you could consider looking a little further afield at "nearshore" solutions (more on that on page nine).

Does IR35 apply to my business?

Private Sector Businesses that meet at least two of the following criteria come under the new regulations:

- A turnover of more than £10.2m a year
- Balance sheet assets of more than £5.1m
- More than 50 employees

1 in 10

The estimated number of off-payroll workers in the private sector who are paying the tax they should be, according to HMRC

£3bn

The additional tax revenues HMRC expects to collect as a result of IR35 in the next four years

Source: HMRC



Inside or outside?

That is the question



And it's not exactly an easy one to answer. With the reforms being relatively new — not to mention controversial within some corners of the business community for their lack of clarity — deciding if a contractor falls inside or outside of IR35 can be a challenge. But here are some of the key questions a business should ask itself if it wants to check if a contract is “inside” or “outside” IR35.

It's important to note that none of these factors are determinative by themselves and there will be nuances to each particular situation that need to be factored in.

▶ INSIDE INDICATORS

- The business doesn't allow a substitute to carry out the work
- The business has control over how, where and when the work is carried out
- The contractor only provides their services to your business
- The contractor uses the business' equipment, such as a phone and laptop
- The contractor receives the same benefits as an employee (e.g. holiday or sick pay)
- The contractor uses the business' email signature and business cards

▶ OUTSIDE INDICATORS

- The contractor may use a substitute if they are unable to do the job
- The contractor has complete control over how and when the work is carried out
- The contractor regularly provides similar services to other businesses
- The contractor is completely independent of your business (e.g. they don't receive benefits like holiday or sick pay)
- The contractor is identifiable as their own entity, with their own email signature (and not yours)
- The contractor is based wholly overseas — and therefore not within the scope of UK tax laws

If all of the “inside” list apply to your contractor, they probably should be on payroll, but if only some apply it will depend on the particular situation. We recommend you do a full audit of all your supplier contracts and seek further professional advice.



Inside or outside? That is the question

If HMRC considers a contract between a business and a limited company to fall “inside IR35”, the former will have to deduct Income Tax and National Insurance.

If they fail to do so, HMRC may require additional tax payments and impose penalties and interest, and clearly no individual or business wants that.



► Introducing the CEST tool

Introduced in 2017, the [Check Employment Status for Tax](#) (CEST) tool was designed for employers to determine the status of contractors they engage. Despite widespread criticism of the test, HMRC insists it is accurate and “stands by the result if the tool is used correctly.”



The industry's biggest questions on IR35

You now know the story behind IR35, who it applies to and what's considered indicators of being "inside" or "outside", but we realise there are still plenty of question marks over such a big piece of regulatory change. In this next section, we will provide clarity on the most frequent questions we hear from our clients and across the industry.

► What should I do if I'm worried my supplier contracts fall within IR35?

You should carry out a full audit of all your consulting and contracting relationships to make sure you are fully compliant and go from there.

► What is an umbrella company, and how does it work?

Most commonly, an umbrella company is an agency that employs self-employed contractors on behalf of clients. In other words, self-employed contractors can join an umbrella company as an alternative to setting up their own limited company. That way, the umbrella looks after the tax so neither the contractor nor the end client have to. Umbrella companies can operate in a number of different ways, so you should always examine the details of how a particular umbrella agreement works.

► Is a supplier subject to IR35 rules if I provide them with equipment?

The short answer is: this is another contributing factor. If a company gives a contractor a laptop, HMRC will see it as another indicator that they're operating "inside IR35". But that isn't to say a contractor using their own laptop is a strong indicator that they're outside. Crucially, HMRC will look at the significance of the financial expenditure. If it's an insignificant cost, HMRC could well see that as a neutral factor. As you can see, the IR35 legislation is full of nuances, which is why it's important to look at your contractors on a case by case basis.

Key Terminology:

Control

This factor relates to the level of control a business has over the contractor they hire. This includes specifics about when, where and how a third party contractor provides their services. The more autonomy a contractor has over these factors, the more likely they are to be classified as self-employed, and therefore outside of IR35.

Substitution

This area of the HMRC's rules takes into account whether a contractor could appoint someone else to carry out the service they are providing. If you are hiring a third party contractor who can, without your consent, freely, pass work onto another contractor this would strongly indicate that the contractor is outside of IR35.

Mutuality of obligation

Relates to whether there is an obligation on the contractor to provide services and on the hirer to pay for those services. If there is no mutuality of obligation then there cannot be an employment relationship, and therefore it is outside of IR35. However, this is a complex area of law and HMRC generally assumes that mutuality of obligation exists whenever a contractor is providing services under a contract.



The industry's biggest questions on IR35

► What if I have contracts with overseas agencies for hiring individuals?

If you use contractors who are based overseas and don't perform any services in the UK, they shouldn't be subject to any UK taxation. In that case, IR35 shouldn't apply.

In addition, if they are employees of an overseas company, and tax is being deducted at source, you don't need to get involved in IR35 rules.

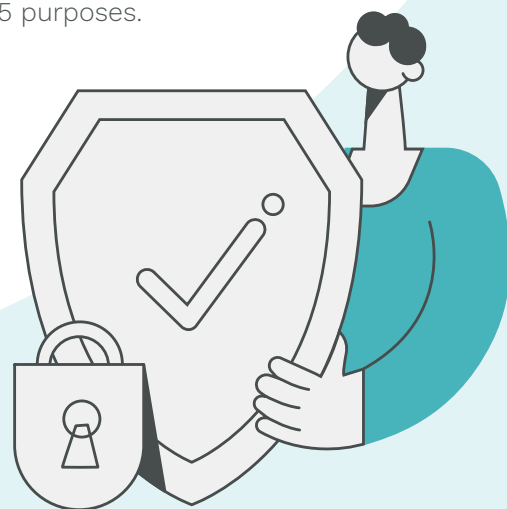
► What if my suppliers work a set number of hours a week but are flexible in terms of when they clock those hours?

If the hours are set per week, but it's completely flexible when the individual performs the services, that's certainly a tick in favour of being outside IR35. But if, say, you have a contract saying people must work 9-5 every day, that's obviously not so favourable.

► Do "highly-skilled" suppliers fall under IR35?

Maybe. This is an issue that comes down to "control". How much control does an end client have over a supplier? If an individual is providing services that require a particularly high level of skill, you would most likely trust that they know what they're doing better than anyone else and leave them to carry out the job as they see fit.

However, a job being classified as highly-skilled isn't enough of a factor on its own. The nature of the job must also be taken into account. For example, if a highly skilled employee has no control over how their job is performed (e.g. rigid work hours in an office) control will not necessarily be a determining factor for IR35 purposes.



“If you've got people who are based overseas and don't perform any services in the UK, they shouldn't be subject to any UK taxation”



How to be IR35-friendly, the Deazy way

Perhaps the easiest way to ensure you're IR35-friendly whilst working flexibly is to use resources in teams based outside the UK. That's where Deazy comes in. Here's how we're providing a game-changing resourcing model for developing digital solutions and products while helping remove concerns around payroll working.

▶ Overseas contractors, taxed at source

At Deazy, we have trusted relationships with over 40 fully vetted nearshore teams, covering a wide range of specialisms, tech stacks and engagement types to provide quality and scale to our clients. These teams utilise employees to deliver services for our clients – employees who are taxed at source in their local jurisdiction outside of the UK and therefore fully “outside IR35”.

▶ A three-to-six month employee roll-over system

Deazy regularly plugs vetted developers into our clients on a flexible basis, building hybrid teams for larger-scale deliveries. Typically, we plan to roll off developers in a phased approach after three to six months to provide an IR35 solution while ensuring seamless handover. Your contract is always with Deazy, which makes us accountable for delivery.

▶ Data security, guaranteed

We take information security standards seriously. We are ISO27001 certified and we are actively pushing these standards down our supply chain to ensure our dev teams adhere to these standards. You're in safe hands.

▶ A solution more flexible than freelancers

Every business impacted by IR35 will have to measure their risk appetite and discern what is “inside of IR35”, and continuing to use freelancers now poses a risk. However, using vetted employees from our nearshore teams provides the same level of flexibility to resource projects while ensuring you remain IR35-friendly as a business.

▶ High-quality delivery at minimal risk

We vet teams before they join our ecosystem, interview developers for jobs, evaluate projects before they start with our risk engine, monitor project delivery through our platform and oversee delivery with our UK team to unblock any issues. Our clients experience the benefits of high-quality delivery without the concerns of IR35 compliance.

▶ Rapid team turnarounds

We typically ramp up or swap out nearshore teams within four weeks, sometimes quicker. In short, our process enables access to flexible, scaleable and fast development within Deazy's ecosystem and ensures the client is happy with the team before they are assigned. And, of course, HMRC is happy too.



How to be IR35-friendly, the Deazy way

Why Deazy, Why Now?

Outside of UK scope

At Deazy, we work with established businesses based outside of the UK, who employ developers, taxed at source, instead of freelancers. As such, we are outside of the IR35 scope but for complete peace of mind we can also confirm:

▶ Substitution

Deazy and our suppliers can substitute and transition developers with notice.

▶ Mutuality of obligation

The client is not obliged to offer ongoing work to the supplier nor is the supplier obliged to accept work, if offered.

▶ Control

Developers we source are based outside of the UK, use their own equipment, and will agree their preferred approach and hours of work to deliver the scope.



The Deazy Way...



Development Ecosystem

Our ecosystem of pre-vetted nearshore development teams -- all road-tested and available for multiple engagement models -- are based overseas and therefore not subject to IR35.



Successful remote working

You can embrace the benefits of successful remote working, from increased margins on projects to a larger talent pool and more flexibility.



Reduced costs

Renting a development team on a per-project basis is a far cheaper way to fulfil your development needs than owning them while reducing the level of business risk (IR35 included).



A one-stop shop

From submitting your brief and receiving an estimate, to team selection and delivery, your project will be entirely managed in one Deazy platform – new for 2021.



Delivery oversight

We have an on-payroll UK-based team to ensure your project success, including experienced, technical Account Managers and Project Managers to deliver on time, to the highest standard and, crucially, in line with IR35.



Multiple engagement models

Whether you need a few extra developers, an entirely outsourced agile team, or a complete build delivered to a fixed scope, we have multiple engagement models to help your business scale and deliver.





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