

IR35 | FACTORS

WHAT ARE THE TOP 3 DECIDING FACTORS CITED BY INDUSTRY EXPERTS, FOR DETERMINING IR35 STATUS IN THE PRIVATE SECTOR, FROM APRIL 2020?



CONTRACTOR OR CLIENT - CONTROL

DEFINITION: THE DEGREE TO WHICH A CLIENT CONTROLS, DIRECTS AND SUPERVISES WHAT, HOW, WHEN AND WHERE AN INDIVIDUAL COMPLETES THE CONTRACT AND DAY-TO-DAY WORK.




MUTUALITY OF OBLIGATION

DEFINITION: A SCENARIO WHERE ONGOING WORK IS EXPECTED BY BOTH WORKER AND/OR EMPLOYER.



PERSONAL SERVICE & SUBSTITUTION

DEFINITION: AN EMPLOYEE OFFERS A PERSONAL SERVICE, WHEREAS A GENUINE BUSINESS OR CONTRACTOR SHOULD BE ABLE TO DELIVER SERVICES TO A CLIENT REGARDLESS OF WHO PROVIDES THEM.



CLARIFICATION OF IR35

“IR35, OR THE ‘INTERMEDIARIES LEGISLATION’ AS ITS OFTEN REFERRED TO, IS A TAX LEGISLATION THAT WAS INTRODUCED IN 2000 WITH THE AIM OF PREVENTING ‘DISGUISED EMPLOYMENT’. AND BY THAT I MEAN IT WAS BROUGHT IN WITH THE INTENTION OF STOPPING CONTRACTORS WORKING THROUGH A PERSONAL SERVICE COMPANY TO AVOID TAX WHEN THEIR WORKING ARRANGEMENT RESEMBLES EMPLOYMENT.”

- SEB MALEY, CEO QDOS CONTRACTOR

AS WELL AS THE THREE MAIN IR35 STATUS INDICATORS, THERE ARE A NUMBER OF OTHER FACTORS WHICH CAN COME INTO PLAY TO HELP GIVE MARGINAL CASES MORE CONTEXT.

THESE INCLUDE;



AS A BUSINESS

IS THE INDIVIDUAL BEHAVING LIKE A BUSINESS OR AN EMPLOYEE?



EQUIPMENT

EQUIPMENT REQUIRED TO COMPLETE A PROJECT - PROVIDED BY THE CONTRACTOR OR BUSINESS?



FINANCIAL RISK

DO FINANCIAL RISKS ASSOCIATED WITH A PROJECT LIE WITH THE CLIENT OR CONTRACTOR?



EXCLUSIVITY

IS THE CONTRACTOR WORKING FOR, AND RENEWING EXCLUSIVELY WITH ONE CLIENT ONLY?



INTEGRATION

DOES THE INDIVIDUAL STAND APART OR ARE THEY INTEGRATED WITHIN THE CLIENT'S CULTURE?



PAYMENTS

HOW ARE CONTRACTORS PAID FOR THEIR SERVICES? PER PROJECT OR ON A FIXED HOURLY/DAILY RATE