



# Talent

```
nd_vision from Talent
rand_vision.findall('values')
from the pack! in values:
append('we lead the way' * 'we strive for better' *
damn')
'forward thinking recruitment'
agent_of_change.txt", "r")
define(recruitment):
return'Talent are redefining' * recruitment
world_of_recruitment)
cares (people):
""" == "contractors" or "freelance" == "contractors" or
colleagues!"
Talent cares about(, people, "as individuals", ' ')
t_beliefs
in Talent_beliefs:
belief)
nsaction!
people
of technology to change the world
iefs.append('being-different')
ent_beliefs[3], 'is the way to progress')
about = ' '
nt - just_recruitment:
is_about = people
is_about = change
t importantly we
from the pack
```

# IR35

*Demystified*  
for Contractors

# IR35 explained

**HMRC introduced IR35 (or the 'off-payroll working rules') in 2000 to tackle what they call 'disguised' employment.**

Some contractors (and their hirers) might try to take advantage of the tax efficiency of working through a limited company, when in practice the contractor is essentially working as an employee.

The benefit for employers hiring workers in this way is that they don't have to pay their contractors' National Insurance contributions or give contractors employee benefits. The benefit for contractors is tax efficiency.

IR35 assesses whether contractors are for all intents and purposes employees when they take on work for clients.

If you're 'inside IR35,' HMRC sees you as an employee and you face an income tax and National Insurance burden, just as employees do. You don't face this if you're 'outside IR35.'



# What will change for you from April 2021?

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HM Revenue  
& Customs

In April 2017, the Public Sector encountered major changes to the legislation and the responsibility for determining their IR35 status moved from the contractor to the end client. The agency (fee payer) taking responsibility for the reduction of tax from payments made to the personal service company (PSC) where IR35 was applied.

As of **April 2021**, following the agreements made in the Finance Bill 2020, the Private Sector will be more aligned to the Public Sector regarding IR35.

It will be the client's responsibility to assess and determine your IR35 status from 6th April 2021. They will provide both yourself and Talent an outcome and evidence to support it.

## **There are two outcomes:**

1. **Outside IR35** – There will be no change to how you are paid
2. **Inside IR35** – Talent will become responsible for deducting income tax and NICs at source.

Many clients will use an online tool that has been created by **HMRC** called **CEST** ([Check Employment Status Tool](#)). The outcome of the tool, which the client will complete would be accepted by HMRC providing the facts entered have been accurate (hence the evidence needed to be provided when the outcome is given).

Some will also use other assessment tools or take advice from their own tax advisors.

# What **options** are currently available for contractors in the marketplace?



## *Limited Company*

In essence, Contractors run their own business and set themselves up as a PSC/ Limited Company. They must be registered on Companies House and must register their accounts annually. PSC Contractors pay Business Tax, less than Personal Tax and generally end up earning more annually. All responsibility for tax is with the Contractor.



## *PAYE*

Agencies do offer what they call "PAYE" services for people that do not want to set-up their own company or work through an umbrella. The agency manages all taxes and NI deductions before paying the worker.



## *Umbrella Company*

Over the course of the past few years, there has been an increase in the use of Umbrella Companies. Generally, Contractors will work via an Umbrella option if they do not want to run their own company or as the initial short-term set-up as a contractor.

Payments from clients and/ or agencies are made gross to the Umbrella Company and workers are paid minus tax and NI deductions (PAYE).

*We have been fielding questions from clients and contractors regarding IR35, these are some examples:*

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### **Is there a possibility of the legislation being delayed beyond April 2021?**

Currently there is no indication from HMRC that there will be any delays to this legislation. There have been recent rumours through various newsfeeds that the impact of Covid-19 might lead to IR35 being put on hold or there will be changes, however, we recommend you plan ahead for April anyway! We will provide regular updates over the next few months.

### **How will Talent manage my assignment?**

Talent are already working closely with clients to understand their stance on IR35. If your contract is being extended beyond March 2021 then we are working with Clients to understand if they deem your contract to be inside or outside IR35.

### **I have my own Limited Company so does that mean I am automatically deemed to be inside IR35?**

The Client needs to determine the status of the contract and decide where they believe the contract to be inside or outside IR35. They will use the CEST tool to support their decision and have multiple options at their fingertips to review to determine the status of the contract.

### **I work through an Umbrella Company so what happens next?**

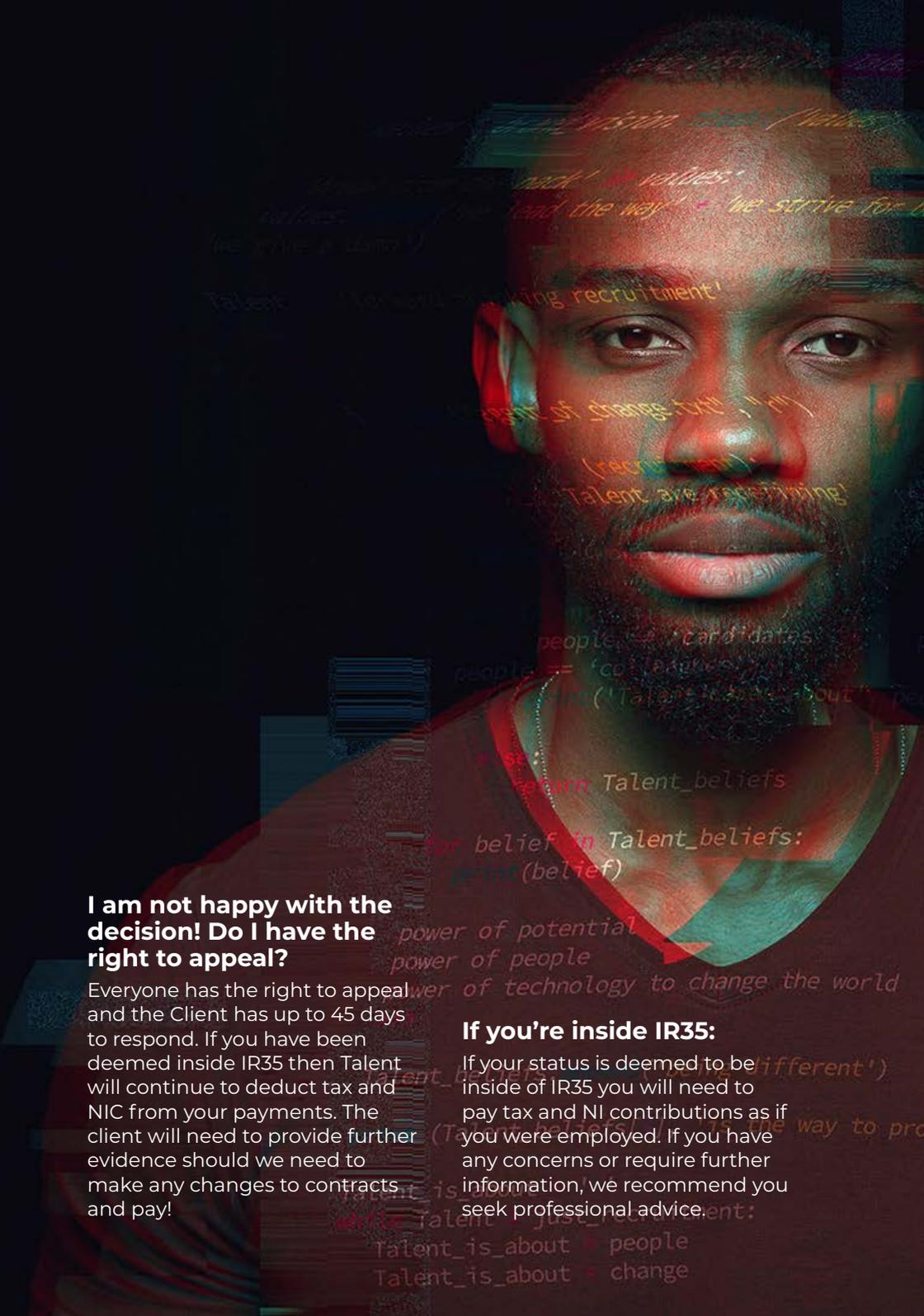
If you work through an Umbrella Company then IR35 will not apply.

### **My contract will be deemed outside of IR35, will there need to be any changes for future extensions?**

We will need to review every contract at extension based on the current legislation. Contracts are often subject to change due to changes in role and change of responsibilities therefore we will closely work with clients and manage accordingly. There have been cases in Public Sector where contracts have been deemed "inside IR35" following the initial decision that the contracts were "outside IR35."

### **Can I change the wording of the contract to influence the decisions?**

Determining if a contract is inside or outside IR35 isn't as simple as it sounds especially when it wholly depends on how you operate as a Contractor! There are various elements to IR35 including "Equipment," "Substitution," and "Financial Risk" which could be seen as advantageous within a contract, however, there are several other factors that need to be reviewed.



## I am not happy with the decision! Do I have the right to appeal?

Everyone has the right to appeal and the Client has up to 45 days to respond. If you have been deemed inside IR35 then Talent will continue to deduct tax and NIC from your payments. The client will need to provide further evidence should we need to make any changes to contracts and pay!

## If you're inside IR35:

If your status is deemed to be inside of IR35 you will need to pay tax and NI contributions as if you were employed. If you have any concerns or require further information, we recommend you seek professional advice.

# Determining IR35 status

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## *Inside IR35*

### *Substitution*

The client will not accept a substitute to provide the scope of services agreed. (if a substitute is paid by an agency then this does not count!)

### *Equipment*

The client provides all the equipment and not the contractor.

### *Deliverables and Control*

The end client decides the services delivered, where they are delivered, how they are delivered and the working hours in which they are delivered without any input from the contractor.

### *Obligations*

The client is obliged to offer and give more work and the Contractor is obliged to accept this work.

### *Duty of Care*

The Contractor is viewed and treated the same as a permanent member of staff and shares similar responsibilities including decisions to hire, delivering appraisals and deciding on what to pay an individual.

### *Payments/Financial Risk*

The Contractor is paid on an hourly/daily basis for the duration of the assignment and/or is offered further payments via shares/profits/savings. The contractor is also able to claim expenses. If the client is not happy with the services performed, the Contractor is able to fix the issues for additional payments and expense.

# What does inside IR35 look like?

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A FMCG company require someone to develop and manage their website. They hire Michael to work for 30 hours per week from their offices with the ability to work from home, from time to time, depending on the project.

The company provides Michael with their own laptop so he can work at their offices, or at home with their permission. The role reports to the Marketing Manager and the work must follow strict internal guidelines and against a project plan.

The company is responsible for all software and software upgrades to enable Michael to complete the work in time. Michael has also agreed that for any additional work, he will be paid overtime and can claim expenses if required.



# Determining IR35 status

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## **Outside IR35**

### *Substitution*

The client will accept a substitute to perform the services agreed. The PSC/Limited Company must then pay the substitute for their service.

### *Equipment*

The Contractor provides all materials and equipment in order to complete the work at no extra cost/expense.

### *Deliverables and Control*

The Contractor decides how the work is delivered, the location of services and the schedule of working hours.

### *Obligations*

The Contractor is under no obligation to accept any work other than the deliverables that have been agreed.

### *Duty of Care*

There are clear differences in the responsibilities between a Contractor and a Permanent member of staff. The Contractor is not responsible for hiring workers, dismissing workers, delivering appraisals or deciding how much someone is paid.

### *Payments/Financial Risk*

The Contractor is paid a fixed price for a specific piece of work/deliverables and should the work not be satisfactory, the work must be completed at no additional cost or expense.



# What does outside IR35 look like?

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A FMCG company require someone to develop and manage their website. Michael and the company agreed a price for the role and decides on how the work will be delivered.

Michael can complete the work from home using his own equipment to complete the work. Michael must complete the work to the agreed standards and within the agreed timescales otherwise there will be a significant financial risk.

Michael is also free work on other contracts; however, the work must be completed as agreed with the company at no extra cost or expense.

# Do you need **more** information?

Don't hesitate to contact us on  
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**Talent**