

BULLETIN November 2008

Clarification on 'IR35'

Most people are aware of the IR35 legislation, and that it relates to self-employed individuals working through an 'intermediary', such as a personal service company, a managed service company or umbrella company.

IR35 is actually the name of the HMRC guidance leaflet; its proper title is the Intermediaries Legislation.

Over the recent past, several cases brought before the courts by HMRC have further clarified the fundamental question of what constitutes a relationship that may fall within the scope of IR35.

The test now focuses primarily on:

1. is there a requirement of personal service?
2. is there a sufficient degree of control over the worker?
3. are the contract's (other) provisions consistent with that of an employment relationship?

Other issues that have previously be seen to be as relevant, such as the place of work, financial risk, etc., are still relevant, but will be ancillary to the above considerations.

Please contact us should you have any questions on this subject, and we will be happy to help if we can. If we work out that there is be a situation that does need addressing, professional legal advice may be needed.

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