

Ginger Nut Training.



Document Title

IR35 & Off-Payroll Working

Originator

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Introduction

IR35 is a catch-all term for legislation surrounding off-payroll working legislation which aims to counteract the use of limited companies (also known as Personal Service Companies) to provide the services of an individual and therefore pay a lower rate of tax. This legislation affects all contractors and freelancers who do not meet HMRC's definition of 'self-employment'. The legislation was designed to identify contractors working as 'disguised employees' and ensure the correct tax is paid.

Although Ginger Nut is a small company outside the public sector per the criteria used in the regulations and therefore is not considered responsible for this, we need to be aware of the legislation and what steps to take to ensure compliance in the event of future company growth or widening of the scope of the requirements, as well as for general best practice in line with our policies around ethical conduct and fraud prevention.

Identifying any issues

HMRC has [a flowchart](#) on their website to help people determine whether the IR35 rules apply to them.

Factors used to determine the IR35 status include control, financial risk, substitution, provision of equipment, right of dismissal and employee benefits. Essentially, if off-payroll employees have the same responsibilities, control and benefits as a permanent employee then they will more than likely be covered by the IR35 regulations, and as such Ginger Nut needs to make sure they are paying the correct amount of tax.

Small Companies Exemption

A company outside the public sector is exempt from the IR35 legislation if it satisfies 2 of the below tests:

- Fewer than 50 employees
- Turnover is less than £10m
- Balance sheet total is less than £5.1m

Ginger Nut Training currently satisfies all 3 of these criteria, so the responsibility for assessing IR35 status rests with the contractors themselves. However, we may need to provide information about our company size if requested.

Self-Employment

The off-payroll working rules only apply to individuals who are working like employees under the current employment status tests for tax, and do not apply to the self-employed.

Individuals who operate their own business structure and do not work in the same way as an employee, for example they have their own business premises, employ other workers or work for a wide range of clients, continue to be outside of the scope of the off-payroll working rules.

In these circumstances they will continue to be responsible for paying tax through Corporation Tax Self Assessment (CTSA) and Income Tax Self-Assessment (ITSA).