

## Communication, understanding and compliance – how to stay the right side of HMRC with the IR35 rules potentially changing in April 2020

When we first got wind of the intended changes to the IR35 rules at SX3, we were as uncertain as anyone as to what they would mean in practice.

SX3 provides independent expert services to insurance claims operations on a contract basis so on the face of it, in those early days, the idea of having to pass over control of defining our own tax status to a third party seemed a bit dicey to say the least.

### No Devil in the Detail

But once we got into the detail and understood how the provision of SX3's services would be viewed by HMRC, it became clear that our business model was explicitly IR35 compliant, which will be of benefit to our contractors and our clients when the rules kick in.

Knowing that we were compliant was a big relief, and I would recommend that each party involved in hiring or working as a consultant go through the same process.

### Are You Truly Self Employed?

There are various digital tools you can use to assess your IR35 status such as HMRC's [CEST tool](#). Although it has received a lot of criticism from some quarters for its blunt approach, common sense should indicate whether someone is genuinely self-employed or not.

The [IR35 rules themselves](#), designed to combat tax avoidance by companies hiring limited company contractors, have been with us since 2000. They seek to determine whether an individual is genuinely self-employed or, in practice, operates like any other employee of a business but without that business carrying the associated tax liabilities.

Although there are no hard and fast rules, in general terms, someone is probably self-employed if they:

- Can decide on what, when and how they work
- Can work for more than one client
- Can appoint a replacement to do the work
- Have to correct any unsatisfactory work in their own time
- Have agreed a fixed price for a job, regardless of how long it takes



## How are Employers Responding?

Defining your status is a good starting point [but there have been reports of large corporates taking a blanket approach](#) to avoid falling foul of the new rules, insisting contractors should only be employed on PAYE. This is despite HMRC making it clear that this would not be compliant with the rules.

This feels like a knee-jerk reaction and one that I think could cost them. Those firms that take a more measured, sensible approach and assess contractors and their contracts on a case by case basis, could find themselves at a competitive advantage.

And crucially, firms with fewer than 50 employees and a turnover of less than £10.2m, will be exempt from the changes. So, we could well see a dash of contracting talent heading in this direction at the expense of larger firms that choose a catch-all approach.

Based on my experience of the contracts we are putting in place with clients, most firms in the insurance sector want to retain access to self-employed talent and are taking a considered approach to the issue. To fellow contractors however, I would advise rather than sit back and wait to see how your clients will react, be more proactive on the issue.

## It Is Worth Acting Now

If contractors and clients initiate dialogue now, ensure mutual understanding of the rule changes and how they apply (or don't) to the way you work together, assess the status of your contract using the tools provided and share the results to determine how you can continue to work together. It is an approach that SX3 has adopted and one that has been well received.

So, there is a real opportunity for genuine contractors and their clients to continue to enjoy the flexible working arrangements they already have in place. It just requires each party to not only show that they understand the rules and are compliant with them, but that they are willing and able to work together to ensure that everyone stays on the right side of HMRC.

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Adrian Gilbert is managing director of SX3, a leading provider of consultancy, audit & review and resourcing services designed to meet the needs of the insurance claims processing industry. Adrian has a successful track record in managing claims operations, strategy, customer relations, people, supply chain and technical, across multiple lines of business (motor, property, casualty, product protection and legal expenses).

If you would like to more information on how freelancers could help your business, please [get in touch](#) with Adrian Gilbert.