

IR35

Back on the Table: Recap and Solutions for 2021

The coronavirus (COVID-19) pandemic brought along an unexpected twist to HMRC's plans for private-sector IR35 rollout. On 11 March 2020, Chief Secretary to the Treasury Stephen Barclay announced that the new tax rules would be put on the backburner⁽¹⁾ until 6 April 2021.

The last-minute decision, while justified considering the economic impact of lockdown restrictions, caught many SAP businesses and contractors by surprise. Since the new deadline raises even more questions, we're here to help you navigate this new reality:

- What does IR35 mean for the SAP world?
- Who will be affected by the new regulations?
- What will happen on 6 April 2021?
- How can SAP clients and contractors prepare?
- What did the January review of IR35 change?
- Three-way solution package for clients and SAP experts

Where are we at with private sector IR35?

Introduced in 2000, IR35 was designed to be the government's tool against tax avoidance and 'disguised' employment across the UK's contractor workforce. In 2017, the regulation rolled out in the public sector and made public bodies and agencies, instead of contractors, responsible for determining the employment status (on-payroll vs. off-payroll) of contingent workers.

Three years after the public sector changes, IR35 was set to redefine the contracting landscape among private sector businesses and organisations. By 2023-24, the government hoped to pocket an additional £3bn in taxes and NI contributions, but those plans were cut short by the pandemic and deferred as part of the COVID-19 response package.⁽²⁾

Fast forward to today, IR35 is back on the table with a new 6 April 2021 deadline. While the legislation hasn't changed much since it was first announced, the government have been prompted by stakeholders to introduce several minor improvements to aid the transition:

- Improvements to the CEST (Check Employment Status for Tax) tool
- Additional support and communication with business owners
- Limiting the new rules to services provided on or after 6 April 2021
- No new compliance checks into PSCs for tax years before 6 April 2021
- A "light touch" approach with no penalties in the first 12 months

Although the review took place in February this year, it's likely that the changes will also apply to the adjusted deadline.

You can read the full document

What will happen on 6 April 2021?

In short, the IR35 legislation will transfer the responsibility for employment status determinations (on-payroll vs. off-payroll) from contractors to end clients. At present, it's up to contractors operating as PSC (personal service companies) to determine their status with individual clients.

When the new changes go live, end-clients will be required to produce a Status Determination Statement (SDS) complete with the decision and argumentation. Failing to provide an SDS or meet HMRC's 'reasonable care' requirement may lead to investigation and penalties.⁽³⁾

Who will be affected by IR35?

The government's attempt to regulate the private sector won't take a cookie-cutter approach. IR35 will only apply to medium and large-sized businesses with at least 50 employees, an annual turnover of £10.2 million or more and a balance sheet of over £5.1 million.⁽⁴⁾

If you're a limited company contractor and operate through your PSC, your clients will be responsible for reviewing and determining your employment status. If your contract falls 'inside' IR35, your take-home pay will reflect National Insurance and tax deductions under PAYE terms.

Sole traders who are already paying Class 3 and Class 4 NI contributions and contractors working under Umbrella Companies won't be affected by the new regulations. That said, determining employment status for sole traders will still rest with end-clients.

How can you prepare?

Regardless if you're an IT contractor or SAP-enabled business, the key is to understand the implications of the upcoming changes, review your existing contracts and engage in an open discussion with all parties involved in the supply chain.

At bluewaveSELECT, we understand that even with the additional year to prepare, the situation does and will continue to cause confusion on both sides. That's why we've prepared a comprehensive, three-way solution package for our clients and SAP experts.

Conclusion

With the new IR35 deadline just around the corner, this is the last call to review contracts, fortify supply chains and modernise existing processes for full compliance. bluewaveSELECT will help you draft and implement a solid response plan to face the upcoming changes.

Are you an SAP professional or Company requiring SAP expertise or advice on IR35?

Let us know at hello@bluewaveselect.com or +44 (0) 1423 559 559.

Resources (1) <https://www.gov.uk/government/news/off-payroll-working-rules-reforms-postponed-until-2021>

(2) <https://www.gov.uk/government/collections/financial-support-for-businesses-during-coronavirus-covid-19> (3) <https://www.gov.uk/guidance/reasonable-care-tax-returns-and-other-documents>

(4) <https://www.gov.uk/guidance/april-2020-changes-to-off-payroll-working-for-clients#conditions>

1. 'Outside' Cost Neutral Solution

If you're an SAP client, bluewaveSELECT will source, screen and assess contractors who can work 'outside' the regulation and in compliance with the new rules. The good news is we've determined that 98% of the SAP professionals in our network will work 'outside' IR35.

If you're an SAP contractor and your contract with a particular client is deemed 'outside' the regulation, the additional tax burden and NI contributions won't apply. You will still be able to enjoy the flexibility of your PSC and we will connect you with new opportunities same as before.

2. 'Inside' Still Find SAP Experts

If you're a contractor and your employment status is deemed 'inside' IR35, you'll be able to renegotiate contract terms to minimize the impact of PAYE on your take-home pay. Many of our clients have already declared to partially offset PAYE costs and offer additional benefits.

If you're an SAP client and your 'inside' contractors decide to move on, we will fill the gaps with the best talent in our network to keep your programmes on course. Two-thirds of our SAP professionals said they are open to working insider IR35 under the right circumstances.

3. Statement of Work (SoW) Framework

Finally, we can provide a Statement of Work (SoW) framework in which bluewaveCONSULT, our SAP consultancy, takes on the role of a service provider. SoW is an outcome-based agreement that specifies key deliverables, time, materials and quality of service.

The SoW model removes all responsibilities and liabilities from your organisation and lets us do the heavy lifting. bluewaveCONSULT takes care of sourcing SAP talent for your programmes as well as ensuring superior quality of work and full compliances with HMRC's requirements.

Transform your approach to SAP delivery. Unlock access to hidden networks