

# 'Outside' IR35: A Cost-Neutral Solution for SAP Customers



**On 6 April 2021, the responsibility for determining employment status will shift from contractors to private sector clients. Is it possible to remain 'outside' IR35 without additional costs?**

Many medium and large-sized businesses that will be covered by the new rules are concerned that they won't have the resources to individually assess all limited company SAP contractors. Failing to do so may draw the attention of HMRC and result in investigations and penalties.

Meanwhile, SAP contractors fear they may be automatically forced on PAYE terms by businesses taking a safety-first blanket approach and calling an end to all off-payroll contracts. Some have indicated that if this happens, they might look for work elsewhere.

In the ensuing confusion, both contractors and clients are crying out for answers. Is staying 'outside' IR35 still an option? If so, how can you ensure full compliance with HMRC guidelines?

As an SAP recruitment business, we have developed a number of solutions which not only take away the threat to our SAP contractors but also protect clients from the burden of carrying out individual assessments. But first, let's see what we're dealing with.

## What is IR35?

IR35 is a piece of legislation that was first introduced back in 2000 as a tax-avoidance measure targeting 'personal service companies'. The government's objective was to battle 'disguised employment' among the UK contingent workforce by transferring the responsibility for determining employment status (on-payroll vs. off-payroll) from contractors to end-clients.

In 2017, IR35 came into effect in the public sector. Three years after the first field-test and an unexpected delay due to the coronavirus (COVID-19) pandemic, the new tax rules will roll out in the private sector on 6 April 2021.

The changes will burden medium and large-sized businesses with making status determinations for all their off-payroll workers and providing a Status Determination Statement (SDS), complete with the decision and argumentation, to all parties in the supply chain.

If a contract is found to fall 'inside' IR35, the fee-payer (usually a recruitment agency) will be responsible for deducting the relevant tax and National Insurance contributions at source. The government expects this additional stream of revenue will bring in £3bn by 2023-24.

...we have developed  
a number of solutions  
to protect clients  
and contractors

## Lessons Learned From the Public Sector

One of the key lessons businesses can learn from the public sector is that blanket approach and putting a ban on all off-payroll contracts is by no means an optimal solution.

When IR35 was rolled out in 2017, agencies and organisations faced severe shortages of expertise and administrative resources. That led to widespread 'blanket' determinations that cut contractors from work and put many programmes at considerable risk.

In a 2018 Hays' report 'Preparing for IR35 - Lessons Learned From the Public Sector' found that 47% of organisations who had initially blanketed all contractors 'inside' IR35 eventually started looking into individual, case-by-case assignments.<sup>(3)</sup>



## Is the Private Sector Ready for the Changes?

In 2019, exactly one year before the original 6 April 2020 deadline, specialist law firm Brookson Legal conducted a survey of more than 500 contractors which found that:

Nearly a  
**quarter**  
said they don't fully  
understand the changes



Only  
**22% believe**  
their client will make a  
correct decision



More than  
**50% believed**  
IR35 would make  
contracting less popular



While the awareness of the changes and their implications has improved over the last year, a more recent survey by ContractorCalculator proves we're still far from ready.

Although 62% of the surveyed contractors say they understand the changes, only 20% seek professional help with determining their contract status. To make matters worse, only 30% have an insurance policy in place against potential tax investigations.<sup>(2)</sup>

Before the government announced the hold up in March, many companies had been forced to ban PSC contracts altogether. That exposed them to problems with talent retention and strained the mutually profitable business relationships with their contractor workforce.

Attempts to follow a similar 'blanket approach' in the coming months could prove very costly to companies going through SAP-enabled business transformations. Without independent SAP talent, ongoing programmes may come to a halt until the situation is resolved.

Companies that aren't able to avoid a blanket 'inside IR35' policy could try to attract and retain SAP experts with increased day rates and additional perks. That, however, will require open and transparent conversation involving all parties in the supply chain.

To avoid rushed decisions and not repeat the public sector scenario, we recommend that companies start preparing internal IR35 policies now and determine how they'll conduct status determinations, retain existing SAP talent, and successfully face HRMC challenges.

## Our solution

Full Tax liability insurance  
cover for all parties

Cost neutral solution  
for our clients

Full IR35 compliance  
paperwork provided

Online client portal for  
managing IR35 reform





## How to Stay 'Outside' IR35 with bluewaveSELECT

We have assessed that due to the project-driven nature of SAP contracting, the right of substitution stipulated in contracts, key deliverables and day-to-day working practices, 98% of all our freelance placements will be deemed 'outside' IR35.

To meet HMRC's guidelines and ensure full compliance with the new rules, bluewaveSELECT will arrange all individual assessments on behalf of our clients and provide full insurance for each contract to cover potential legal costs, tax, interest and penalties.

Due to the nature of work and character of contractor-client agreements, a fraction of placements will be classified as 'inside IR35. There will be some businesses that will continue along the blanket PAYE policy change route. These scenarios require a different approach. To address this, we have partnered with leading IR35 experts and developed two alternative solutions.



bluewaveSELECT will help to convert all remaining contracts to a fully-compliant PAYE model and source SAP professionals who operate 'inside' IR35. We'll continue to connect clients and SAP talent in the usual manner through our hidden networks.



bluewaveCONSULT, our independent SAP consultancy, will provide new placements through formal Statement of Work (SOW) arrangements. Our true IT services model will mitigate the risk of non-compliance and meet all project needs, including sourcing talent and processing necessary documentation.

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

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

Resources (1) <https://www.brooksonlegal.co.uk/news/3-in-5-contractors-could-leave-hiring-businesses-if-found-to-be-inside-ir35/>  
 (2) [https://www.contractorcalculator.co.uk/contractors\\_taking\\_dangerous\\_risks\\_ir35\\_status\\_300110\\_news.aspx](https://www.contractorcalculator.co.uk/contractors_taking_dangerous_risks_ir35_status_300110_news.aspx)  
 (3) <https://www.hays.co.uk/documents/34684/1181815/IR35+Whitepaper.pdf>



**Transform your approach to SAP recruitment**  
**Unlock access to hidden networks**