



Theo James

ENGINEERING & MANUFACTURING

# IR35 Guide

---



If you are a contractor and haven't been living under a rock for the last two years, you will be already aware of the new IR35 Tax Regulations.

Here's a refresher or a basic guide if you are new to the contract game.

## > What is IR35?

In April 2021 new rules came into force for businesses that engage the services of temporary workers (contractors) who work through their own limited company. This means that end hirers are now assessing every contract role, by making a declaration about whether the assignment is "inside IR35".

### *Why has it come into play?*

Essentially, to stop a loophole in the tax system, where workers could use the setup of a limited company structure in order to pay less tax. The term 'deemed employee' is referred to people who in theory shouldn't be classed as a contractor.

The IR35 legislation identifies 'deemed employees' and ensures they are taxed correctly, however, IR35 can impact those operating genuinely through a limited company structure due to the subjective nature of the legislation.

### *'Outside of IR35'*

If you have an assignment that is deemed as 'outside' of IR35 then you are considered self-employed and can utilise dividends and salaries under the higher rate tax threshold.

You must however ensure you have all your personal and company tax matters in hand, with HMRC.

### *'Inside IR35'*

If you have an assignment that is deemed 'inside' of IR35, you're considered an employee, and will essentially be required to pay tax at the same rate as any employee in that tax bracket

It's important to remember though, that tax and employment legislation are currently separate. So, whilst you may be considered an employee for tax purposes, you are not automatically entitled to employment rights.



## > **How is an assignment determined as 'outside'?**

It's important to remember that your IR35 status as a contractor shouldn't be determined on one contract in isolation. However, the points below do point towards an obvious self-employed engagement (outside of IR35).

- Supervision/Direction – your role does not have a 'line manager'. The end client gives you autonomy to complete the assignment as you see fit.
- Substitution – you have the right to provide an able substitute in your place.
- Your company carries financial risk and is liable for any mistakes you make.
- You are not 'part and parcel' of the client's organisation and do not enjoy benefits like an employee.
- Your contract has a start and end date.
- Mutuality of obligation: you are not obliged to continue the work indefinitely.



## > How is an assignment determined as 'inside'?

Again, while individually these factors may not result in being caught by the rules, here are several indicators of a contract that could be determined inside IR35:

- You have no right to provide a substitute.
- There's an obligation for your client to provide work and an obligation for you to accept it.
- Your client dictates how, when, and where you provide the service.
- You have a rolling contract, with no fixed start or end dates.





# Theo James

**Thank You**

For more insight and advice on IR35, please email

[hello@theojesrecruitment.com](mailto:hello@theojesrecruitment.com)

or call

**0330 1340 274**