

Personal Services Companies IR35

Nowadays, HM Revenue and Custom (HMRC) is interested in IR35. IR35 issues arise where a company (for example: Company A) is established to provide services to a services company (for example: Company B).

In this case, company A solely and exclusively works for company B. Company A was established in order to avoid PAYE and Class 1 National insurance (NI).

Company A pays the director a lower level of income and rest will be paid by dividend as the tax on the dividend is lower than the income tax.

IR35 Rules:

- An individual provides services to a client via a personal service company
- The individual would be treated as an employee of the client
- The individual has $\geq 5\%$ interest in the personal services company.

Difference between employee and self-assessment:

Employees	Self-employed
Have a contract of service with their employer	Enter into a contract for services
Receive taxable earnings + pay tax under PAYE system → income tax and class 1 NI	Pay tax on profits for a tax year → income tax 2, class 2 and 4 NI

Tests applied by HMRC to distinguish employees from the self-employed include:

- Control over the worker + power to decide when work is performed
- Obligation to accept work
- Hiring of subordinates
- Financial risk/reward (self-employers always face financial risks/rewards) for example finishing work early or late
- Who provides equipment
- Wording of contract (obey orders, obligation to appear, rights, etc.)
- Sick pay, holiday pay
- Uniform (but Tesco insist agency drivers must wear Tesco jacket)
- Job title

If the personal service company falls within the above criteria than there will be deemed salary has to be calculated for the director on a monthly basis. This deemed salary will be included on payroll and director will have to pay PAYE and Class 1 National Insurance.

This deemed salary is subject to Employer National insurance as the company and director will pay more tax than usual, there is also good news. This deemed salary is allowable expenses therefore it will help company to reduce the corporation tax for the year.