

# **Extension of Off-Payroll Rules (IR35)**

## **Into the Private Sector from 6<sup>th</sup> April 2021**

### **STATUS DETERMINATION STATEMENT**

In response to various concerns surrounding the provision of information as well as a duty for taking reasonable care, the off-payroll rules now include the requirement for a 'status determination statement' (SDS). This will apply to both private sector organisations and public sector bodies from 6<sup>th</sup> April 2021.

Prior to 6<sup>th</sup> April 2021 it was the Contractor, usually working through an intermediary such as their own Limited Personal Service Company (PSC) that assessed their own IR35 Tax status. From 6<sup>th</sup> April it will be the Clients responsibility to assess and determine a contractors IR35 status.

#### **WHAT IS A STATUS DETERMINATION STATEMENT?**

According to the final legislation of the Finance Act 2020, which received Royal Assent in July 2020, the statement must include:

1. The status decision made on an engagement of a contractor
2. The reason which led to this decision

The SDS should also include if any specialist advice or tools were used such as HMRC's CEST tool.

This statement must then be shared with both the contractor and the next party in the supply chain from the client (in most cases this would be the fee-payer which is usually the recruitment agency placing the contractor, however, in more complicated supply chains this may be a different party who will be obliged to pass on the statement until it reaches the fee-payer).

#### **EXAMPLE of a COMPLETED Status Determination Statement**

The following example of a completed SDS is intended as a guide only for hiring organisations who will be impacted as a result of the off-payroll working rules (IR35 reform) in effect as of 6<sup>th</sup> April 2021. The example is provided for general information only and it is not intended to amount to advice upon which you should rely. The assessment decision details could be a date stamped pdf printout of the CEST results or other review tool or audit.

A status determination statement should be completed by the relevant persons and subsequently provided to the parties as described above for each new PSC engagement and existing PSC engagement who will, or is expected to, receive a payment on or after 6<sup>th</sup> April 2021.

Please also be aware that the new rules require that the organisation completing the SDS should also have in place a procedure for dealing with any challenge to your decision a contractor may bring.

More information is available on the IR35 hub section of our website: <https://www.bamfordcs.co.uk/employers/ir35-hub>

**\*\*\* EXAMPLE \*\*\***

## STATUS DETERMINATION STATEMENT

*Client / End User Name & Contact Details including the name of the person completing this form:-*

[ ]

[ ]

**Off-Payroll Workers Details:-**

Intermediary/ Company Name: PSC Contractor Ltd                      Contractors Name: eg John Jones – Director

Contract/ Assignment Name: Student accommodation, London

Contract Start Date: 6<sup>th</sup> April 2021

Contract End Date: 31 August 2021

Agency (if applicable): Example Recruitment Services

Date Completed: 1 March 2021

Completed By: Joe Bloggs - Hiring Manager

**Assessment Decision Details**

We believe that this engagement falls **Outside IR35** and you are therefore **Self Employed**

- You have a genuine right to provide a substitute which is crucial with regard to IR35 as it is one of the most important tests used by HMRC in determining IR35 status, and demonstrates that it is your business that has been engaged to provide services rather than a specific individual.
- Your business would pay any substitute provided. Any substitute engaged by your business must be paid by your business for such a right to be viewed as genuine by HRMC.
- Your business can engage helpers to assist in the provision of services. This helps to demonstrate a lack of a requirement for personal service.
- You are not subject to ongoing monitoring or supervision which is a strong indicator to self-employment.
- You are able to determine how to provide the services which is positive as this demonstrates that, as an independent specialist, you can determine your own method of working. This is a strong point towards genuine self-employment.
- The end client does not have any employees who can undertake the services your business has been engaged to provide, which demonstrates that your business has been engaged for the specialist services it can provide.
- Paying for training or equipment which is vital to the services you are providing is positive and helps to demonstrate that you are operating a genuine business.
- You would correct defective work at your own cost and in your own time which shows that you are taking a financial risk, a strong indication that you are operating a genuine business.
- You have corrected faulty work in your own time, and at your own cost, during this contract which demonstrates the existence of financial risk.
- You hold business insurances which is a good indicator of being in business on your own account and also demonstrates that you are exposed to a financial risk.
- Your business has undertaken multiple contracts, which is a strong pointer towards genuine self-employment. Contractors who are not reliant on one source of income, but who provide services to many clients are much more indicative of a genuine business.

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This Determination was produced using ~~HMRC's CEST Tool / Independent Advice / in-house expert~~ and is provided in accordance with Part 2 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA 2003)