

IR35

IR35: Are you Ready?

18 February 2021

HR
Solutions


**CRISPIN
RHODES**



Introductions

Presenters



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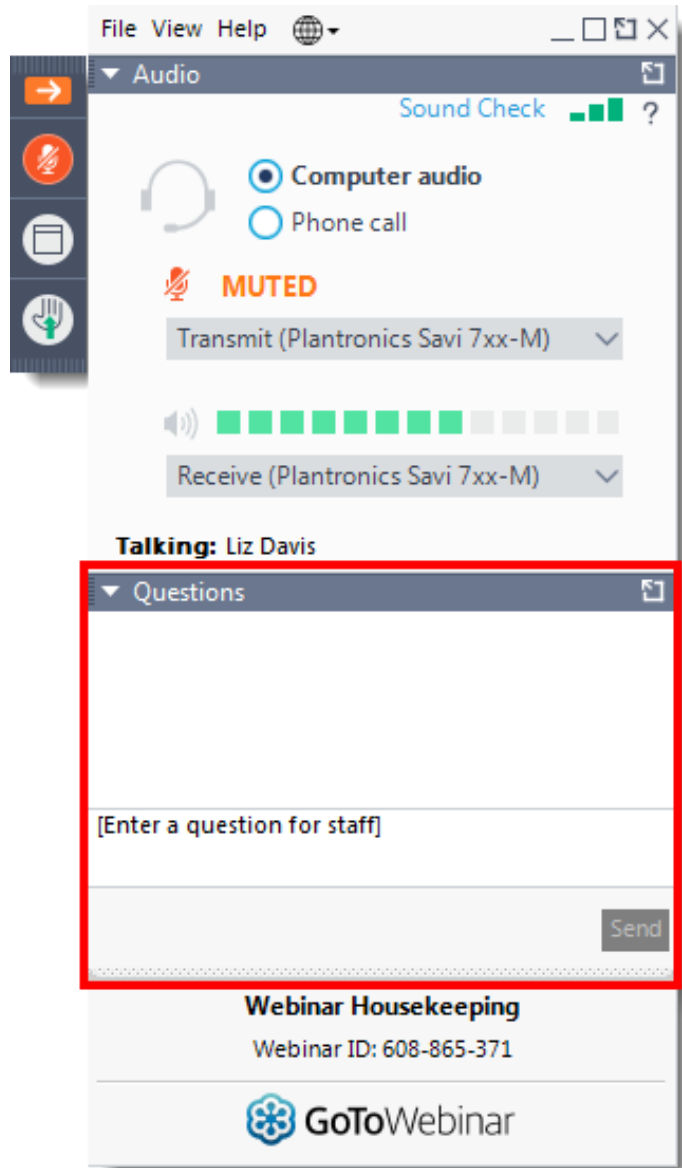
A group of diverse people are seated in a modern office or meeting room. In the center, a man with a beard and glasses, wearing a grey cardigan, has his right hand raised. To his left, a woman with long dark hair is looking towards him. Behind them, other people are visible, some looking at the man with the raised hand. The room has large windows with green plants and bookshelves in the background.

How to ask questions





GoToWebinar Housekeeping: Time for Questions



Your Participation

- Please continue to submit your text questions and comments using the Questions panel



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Agenda

- IR35 Overview
- Who will the new rules apply to?
- Why is employment status important?
- Responsibilities
- What happens with IR35 applies
- Potential Implications
- How to prepare for IR35 changes



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IR35 Overview

- 6 April 2021
- Finance Act 2017 will apply to public sector and medium to large sized private sector organisations
- Contractors must be taxed at source to ensure broadly the same tax and NICs being paid to those paid by employees
- Rules also apply to workers providing their services through an intermediary
- Responsibility for determining a worker's employment status rests with the client **NOT** the person providing the service
- For small companies operating in the private sector, the rules will remain as they are now

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Who will the new rules apply to?

These rules apply if the company meets 2 or more of the following:

- Annual turnover of more than £10.2 million
- Balance sheet total of more than £5.1 million
- More than 50 employees
- **However** – for associated companies, if the parent company of a group is classed as a medium or large organisation then their subsidiaries will also have to apply the rules

Who will the new rules apply to?

Simplified test: the rules apply if an organisation's annual turnover is more than £10.2 million and is **NOT**...

- A company
- A limited liability partnership
- An unregistered company
- An overseas company

Who will the new rules apply to?

What if my company does not meet the conditions on 6 April 2021 but does later on?

If they are subsequently met for 2 consecutive years, then the date the rules are applied from is the start of the tax year following the end of the filing period for the 2nd financial year when they meet the conditions

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Why is Employment Status important?

- Employment Status for tax purposes v Employment Status for employment law purposes
- When IR35 rules apply to a worker they do not automatically become an employee entitled to all employment rights
- IR35 rules aim to address disguised employees
- [Check employment status for tax](#)
- Disagreements with the determination of status
 - HMRC guidance requires client to consider reasons
 - Uphold the determination
 - Change the determination
 - Client response within 45 days
 - Failure to respond = responsibility for tax and NI become the clients' responsibility
 - Thorough records kept throughout

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Responsibilities

- The client is deemed as being responsible for the worker's tax and NI until they inform the worker and the person contracted (e.g. the agency / PSC) with their determination and the reasons for it.
- The client is not responsible for deductions of student loans, holiday pay, statutory payments (such as sick pay / parental pay) or auto-enrolment for pensions. Statutory payments and auto-enrolment will be dealt with through the intermediary.
- The client decides on the employment status
- Status Determination Document
- Agency Workers make the tax & NI deductions but determination rests with the client

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What happens when IR35 applies

- Work out the value of the payment, deduct VAT
- Deduct direct costs of materials for the engagement
- Deduct expenses (that would have been deductible from taxable earnings of an employee)
- Calculate employment taxes and NI for the contract
- Deduct the taxes and NI from payment to the worker's intermediary
- Pay employer NIC's
- Report these payments to HMRC

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Potential Implications: those working through an intermediary

- Will it be worth contractors remaining to work this way?
- Will contractors look for work elsewhere?
- Why choose to work for the same pay as employees without holiday pay / sick pay?
- Will they prefer to become an employee instead?
- Will Companies want to take on contractors as employees?
- Will they prefer to remain as a Contractor but switch to a smaller company that doesn't have to comply with IR35 due to size?

Potential Implications: Working in an IR35 compliant way

- Ensure they have a 'contract for services'
- Engage on a project basis with a fixed term end date
- Allow the contractor to work for other organisations
- Afford flexibility and control to the contractor to decide how and when the work is done
- Accept the contractor's right to provide a substitute
- Ensure the contractor uses their own equipment
- Ensure there is no mutuality of obligation

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How to prepare

- Look at current workforce
- Identify those engaged through agencies/PSC
- Can the current arrangement continue?
- Does IR35 apply? (use tool if unsure)
- Complete a Status Determination Statement
- Talk to contractors about implications
- Clarify who decides on future employment status
- Make any changes to recruitment process required
- Update anyone involved with resourcing

Support Tools

- [Private sector off-payroll working for clients](#)
- [Off-payroll working \(IR35\) detailed information](#)
- [Check employment status for tax](#)
- [Employment status manual](#)
- [Help and support for off-payroll working](#)
- [Off-payroll working for agencies](#)





UPCOMING WEBINARS

Health & Safety at Work: Safeguarding
24 February, Wednesday | 12pm – 1pm

SME Challenge: Marketing to secure new business
25 February, Thursday | 2pm – 3pm

Absence Management: How to deal with mental health absences
11 March, Thursday | 10am – 1pm

NEW! SME Challenge: Managing cyber security
18 March, Thursday | 2pm – 3pm

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UPCOMING WEBINARS

Health & Safety at Work: General Fire Safety

24 March, Wednesday | 12pm – 1pm

Data and GDPR – Compliance and Implications after Brexit

15 April, Thursday | 10am – 11am

New webinar programme coming soon
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Further questions?

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