

3 KEYS TO DETERMINING IR35

When determining whether a contractor is inside or outside of IR35, we're essentially looking to identify whether the working relationship between the end-client and contractor looks and feels like employment. Here are three ways of finding out.

1) Control

Control looks at the level of autonomy given to the contractor in completing the work they have been asked to carry out.



For a contractor to pass this test, they should not be subject to a great deal of control in terms of how they carry out the work. This means that they aren't being told how, where, and when the work should be carried out. However, "control" should not be confused with monitoring the progress or quality of the work being completed. The end-client has the right to ensure the work is progressing, according to the overall project plan.

2) Personal Service

This test looks at what happens when the contractor is unable to provide their services due to sickness or personal circumstances.



For a contractor to pass this test, they should be able to demonstrate that a substitute can be provided to carry out the work on their behalf. It's important to note that being able to demonstrate this is enough to pass the test and the end-client doesn't need to allow this to happen.

3) Mutuality of Obligation

This test looks at whether the end-client is obliged to provide the contractor with further work once the original project has been completed.



For a contractor to pass this test, there should be no obligation for either party to provide or accept any additional work. If the original project is now expected to exceed the original completion date, the end-client shouldn't expect the contractor to be available for this extended period.

Other Factors

This test looks at whether the end-client is obliged to provide the contractor with further work once the original project has been completed.



Financial Risk

Is there evidence of the contractor taking financial risk to deliver the project?



In business on own account

Is the contractor integrated as an employee? Do they receive employee perks – bonus, holiday pay, year-end party?



Provide own equipment

For the contractor to complete the project, do they need to supply/bring their own equipment?