

IR35

What is IR35?

IR35 was introduced in 2000 to address concerns relating to individuals who supply their services via an intermediary (such as a Ltd Company, a Partnership, a Personal Service Company, or an individual (self-employed/sole trader) instead of as an employee, and therefore avoid paying employee income tax and national insurance contributions.

Where an assignment is deemed 'inside' IR35, PAYE deductions must be made from the contractor's pay.

Any assignment 'outside' IR35 is classed as a genuine Business-to-business (B2B) service and is therefore not subject to the same tax treatment as employees.

When should I check for IR35?

Before you engage! If you are not sure, check with the University's TR2 team before you proceed. Engaging services comes with a financial risk and we encourage colleagues to check with the TR2 Team on any queries you have BEFORE any commitments or agreements are made with the individual.

What's changing in relation to IR35 in April 2021?

From 6th April 2021, the government will be extending the IR35 reforms to the private sector. This follows the Public Sector reforms in 2017. The reforms were originally planned for April 2020, but were delayed due to coronavirus.

The key change is that the responsibility for defining the IR35 status of the assignment will switch from the individual's limited company to the client, as the recipient of the services.

What do we need to do about IR35?

The requirement of the legislation states that all companies must take 'reasonable care' when assessing if roles are inside or outside of IR35. Taking a 'blanket approach' to assess all roles won't deliver this. This means if you are engaging a service involving a person that the correct checks need to be undertaken AHEAD of the engagement being made or agreed to ensure the university is protected.

The potential financial penalties can be significant if incorrect steps are implemented, anyone hiring people should have an awareness of IR35 and the potential implications for getting it wrong. Please check with the TR2 to ensure you follow the correct route.

Will this affect the university?

Yes, the government has announced that this will apply to all businesses apart from those who are deemed as 'small companies'. The current definition of a small business is; Turnover – not more than £10.2m, Balance sheet total – not more than £5.1m and Number of employees – not more than 50. The university is therefore NOT considered to be outside of IR35 rules.

How do I know if something is in or out of scope for IR35?

You will need to consider whether the contractor's assignment has the minimum three essential features of employment, being: (i) personal service (ii) mutuality of obligation (iii) control.

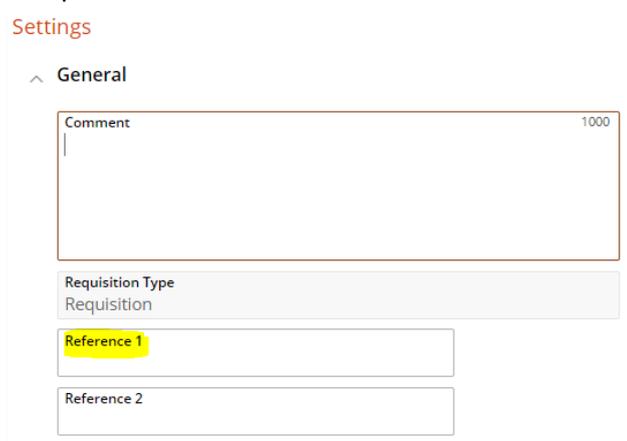
HMRC has an [online tool known as CEST](#) (Check Employment Status for Tax), which will provide an inside/outside assessment based on your answers to a brief questionnaire. HMRC has stated that it will not challenge a decision provided by CEST, as long as the answers provided are accurate.

What do I do with the IR35 determination result from HMRC's website?

Download and save a pdf copy of the HMRC questionnaire CEST result. Complete a [TR2 Request for Temporary Resourcing form](#) and email it, along with the HMRC questionnaire, to the Temporary Resourcing Unit at e-claims@exeter.ac.uk who will check compliance, return your forms back with a reference number within 2 working days and provide you with advice on the next steps.

What to do next if the TRU team confirms this engagement can be paid by purchase order/invoice?

Create a [T1 requisition](#) and enter the TRU reference number in the 'Reference 1' field in the Settings tab of the requisition and add the TRU's confirmation email as an attachment:



The screenshot shows a 'Settings' window for a requisition. Under the 'General' tab, there is a 'Comment' text area with a 1000 character limit. Below it is a 'Requisition Type' dropdown menu currently set to 'Requisition'. At the bottom, there are two text input fields: 'Reference 1' (highlighted in yellow) and 'Reference 2'.

Complete the remainder of the requisition as per the University's [procurement procedures](#), including attaching any relevant quotes/service agreements/contracts.

What if the determination tool provides a different result than expected?

IR35 queries and questions can be sent to e-claims@exeter.ac.uk. They can help you with your next steps once the determination is clarified.

Who do I contact for IR35 advice?

The TR2 Team via e-claims@exeter.ac.uk will be able to guide you through the IR35 process

Do I need to note the reference number issued by TR2 Team?

Yes – the reference number must be included when you raise the requisition. It is added in 'Reference 1' when you raise the requisition. See more detail about creating requisitions [here](#).

Can I use the same reference number again?

No, each time you wish to engage with the individual supplying a service, you must complete the IR35 process and obtain a reference number from the TR2 team.

It is not acceptable to repeatedly use the same code, this would show you have not followed the correct process which would mean you haven't applied 'reasonable care'.