

Changes to Off-Payroll Legislation

This document advises of the off-payroll reforms implemented in 2017, an overview of implementation in GLD and guidance on the scope for IR35 of roles to which agency workers are generally posted within GLD.

The Reforms

Reforms to the off –payroll rules and Intermediaries Legislation (commonly referred to as IR35) were effective from 6 April 2017. From that date contractors employed through an intermediary such as a personal service company (PSC), will be affected by the change to the way that off-payroll working rules (IR35) are applied. This change means that the responsibility for deducting employment taxes and National Insurance Contributions moves from PSCs to agencies or umbrella companies.

The reform requires the status of agency workers to be determined as either, 'in scope for IR35', or 'out of scope for IR35'. To ensure that the assessment of agency workers is consistently managed across Government Departments, guidance was produced by the Cabinet Office and an assessment tool was developed by HRMC.

The assessment tool assesses whether or not a worker is in scope for IR 35 via a series of questions which mainly focus on how the agency worker is expected to manage work in their role, ultimately assessing if the agency worker manages their work under the instruction of the organisation, (like a permanent member employee), or if they have the freedom/scope to manage their work as they see fit, with the ability to employ others to manage work of GLD.

Implementation within GLD

Using the HMRC tool GLD examined/assessed all contractor/agency temp roles to determine whether the off payroll rules would apply for new and existing contractors/agency workers posted to those roles. Following the assessment of roles, all agency workers impacted by the change received a communication advising them of the outcome of the assessment. Agencies were informed of the outcome and managed changes where required.

Determining Scope for IR35

Having assessed roles, the majority of roles at GLD to which agency workers are posted were found to be in scope for IR35, (mainly legal and administrative roles), where the agency worker is required to perform the role as a permanent employee would i.e.

- under the instruction of GLD, in accordance with a GLD process,
- as and when required by GLD, and
- cannot instruct others to undertake work on the behalf of GLD.

(The list is not exhaustive)

GLD posts a number of contractors/agency workers in IT and Change Team roles. Here workers can either be in or out of scope depending on the specifics of a particular role.

When hiring an agency worker, the hiring manager is required to state whether or not the worker/role is in scope for IR35. When the role is legal to fill a G7 lawyer position, or administrative to fill a support position, the expectation is that the role is in scope as the worker will be required to perform the role as it would be performed by a permanent employee, (as described above). The hiring manager must state that the agency worker/role is in scope for IR35.

Where a hiring manager is hiring a worker to perform a role in IT or the Change Team or a role which is not typically performed by a permanent employee, HR will work with them to complete the HMRC assessment tool. The agency will be advised of the outcome.

HR will review the position as and when required to ensure compliance.