



HM Revenue
& Customs

Philip C Lello

By email:

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Date: 11 April 2018
Our ref: FOI2018/00602

Dear Mr Lello

Freedom of Information Act 2000 (FOIA)

Thank you for your request, which was received on 16 March, for the following information:

“Please explain how the IR35 disguised employee test is applied for recipients of Carers Allowance.

It appears that it is work for a minimum of 35 hours a week for a Local Authority with the payroll function outsourced to the Department of Work and Pensions.

I believe the intent of IR35 is to prevent worker exploitation, such as pay below minimum wage and avoidance of health and safety at work legislation.”

Under Section 21 of the FOIA, we are not required to provide information in response to a request if it is already reasonably accessible to you.

The information you have requested is published on the GOV.UK website and can be accessed at the links below. I have summarised the information and links for each part of your request.

It appears that it is work for a minimum of 35 hours a week for a Local Authority with the payroll function outsourced to the Department of Work and Pensions.

- Carers Allowance is a state benefit, paid to people who look after others.
<https://www.nhs.uk/conditions/social-care-and-support/carers-allowance/>

If the person providing the care is a spouse of the person who receives the care, they may fall within a statutory exemption.

<https://www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm4015>

<https://www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm4155>

- Other people are paid Carers Allowance for caring for someone and this income will count as employment income or business profits depending on the nature of the contractual arrangements. The personal nature of the work means this is more likely to be an employment relationship than a self-employment. Guidance about employment status is here:
<https://www.gov.uk/government/collections/employed-or-self-employed>

- Where there is an employment relationship, it is usually between the carer and the person who receives the care, or a person appointed to act on behalf of the person who receives the care.

Please explain how the IR35 disguised employee test is applied for recipients of Carers Allowance.

- The IR35 tests are relevant where the person is employed through an intermediary such as a personal service company. There are no separate IR35 rules for a person receiving Carers Allowance.
Our guidance is here:
<https://www.gov.uk/topic/business-tax/ir35>
<https://www.gov.uk/government/organisations/hm-revenue-customs/contact/ir35-enquiries>

I believe the intent of IR35 is to prevent worker exploitation, such as pay below minimum wage and avoidance of health and safety at work legislation.

- The rules may help discourage worker exploitation but are primarily tax rules. The IR35 rules ensure that individuals who work like employees pay broadly the same tax and National Insurance contributions (NICs) as other employees, regardless of the structure they work through. The rules do not affect genuinely self-employed contractors.

If you are not satisfied with this reply you may request a review within two months by emailing foi.review@hmrc.gsi.gov.uk, or by writing to the address at the top right-hand side of this letter.

If you are not content with the outcome of an internal review, you can complain to the Information Commissioner's Office. Their contact details are available at their website: www.ico.org.uk.

Yours sincerely,

Freedom of Information Team