

# *TAXbite – Off-payroll working in the private sector (IR35) after 5 April 2020*

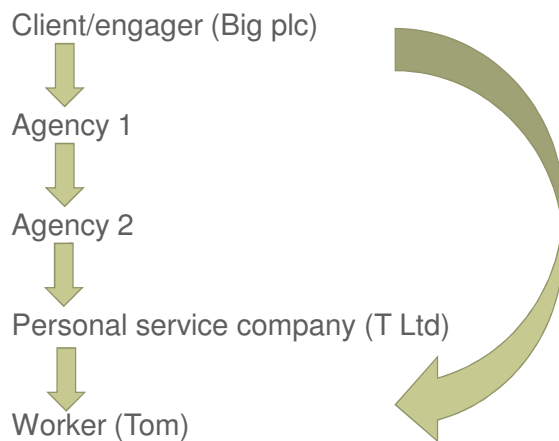
## *Brief overview*



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### *What is affected?*



## *Disguised employment or self-employment?*

- Issue: employed and self-employed pay different amounts of tax and NIC. Engagers pay employers NIC on employees pay
- Rules for determining whether a person is employed or self employed are unchanged
- Individual worker may be engaged by a client/engager
  - directly
  - via one (or more) agency contracts
  - through a personal service company (PSC)
- Does the work look more like disguised employment than self-employment?
  - Dictates how payments made under the contract are taxed
- Tax and employment law status may differ

## *The rules*

	<b>Status decision maker</b>	<b>Tax paid by</b>
Pre 6 April 2017	Tom/T Ltd	T Ltd
6 April 2017 to 5 April 2020	1.Public sector client Client decides status 2.Private sector client Tom/T Ltd decides status	Fee payer
6 April 2020 onwards	1.Public sector or L/M private sector Client decides status 2. Small private sector client Tom/T Ltd decides status	T Ltd Fee payer T Ltd

*Receiving payments as a contractor for services delivered through a personal service company after 5 April 2020?*



## *Know your client: 2 systems*

- Public sector (all) and large/medium clients in private sector **NEW RULES**
- Private sector small clients, old IR35 rules still apply

## *In summary*

- From April 2020 the operation of off-payroll working for large/medium engagers in the private sector will change to be in line with the public sector
  - Responsibility for determining employment status will move up to the end client/engager
  - The person closest to the intermediary must make payment through a payroll. ie the intermediary company will be paid net of income tax and national insurance (like an employee)
- ‘Small’ means small defined by s382, Companies Act 2006, 2 out of 3
  - Turnover, £10.2m
  - Balance sheet total, £5.1m
  - Employees, 50

## ***New rules for Public sector and L/M Private sector***

- Client determines tax status of the contract **on/off payroll decision**
  - Issues a Status Determination Statement (SDS)
  - SDS given to **person client contracts** with and also directly to the **worker**
  - Must take **reasonable care**
  - May use Check Employment Status for Tax (CEST) tool
  - Must include reasons for the decision
- The SDS must be passed down the chain
  - The client is liable for tax and NIC until it tells the person it contracts with
  - Agencies will pass the SDS down the labour chain
    - Liability passes with the SDS
  - Fee-payer operates PAYE if necessary
- Who bears cost of any Ers NIC should it become due?
  - The client, but follow the contract...

## ***Disagreement with SDS***

- **Status challenge** possible by
  - Worker
  - Fee-payer
- Must give reasons
- Will be client led
- No involvement of HMRC
- Client has 45 days to respond

## ***Further information***

For IR35 basic rules see [Off-payroll working or IR35 an overview](#)

For a detailed consideration of the IR35 rules and practical application, see [ICAEW.com/IR35](https://www.icaew.com/IR35)

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