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Personal Service Companies and the Public Sector

Public Sector, Off-payroll workers, tax avoidance, IR35, PSCs

Off-payroll workers, including personal service companies (PSCs) engaged by the public sector have to give ‘assurance’ of their tax position following rule changes in 2012. Departments must be satisfied with the assurance. For PSCs this requires awareness of complex tax legislation (IR35), which is aimed at preventing tax avoidance by these companies. Costs may be incurred in attaining the necessary knowledge. This may bring into question costs incurred in protecting tax revenue. No similar obligation exists in the private sector.

1. Introduction and background

1.1 Introduction

The UK government has clearly stated its intention to clamp down on tax avoidance. One area thought to offer opportunity for tax avoidance is if organisations (engagers or clients henceforth) engage persons ‘off-payroll’. Such individuals, not being employees, are responsible for their own tax position – and, in addition – engagers in such arrangements do not have to pay employer National Insurance Contributions (NICs). Media attention in 2012 (Sparrow, 2012) suggested that some off-payroll workers may pay less tax than those employed in the traditional manner. This is not an issue unique to the UK, but following media attention, it was thought to be unacceptable within the public sector. Consequently a review of off-payroll engagements was undertaken and new rules for public sector departments were introduced in 2012, in an attempt by the government to ‘put its own house in order’.

The rules introduced require departments to seek assurance from off-payroll workers that their tax position is ‘correct’; i.e. such workers do not exploit tax avoidance opportunities existing as a result of the way in which they work. This may not, however, be straightforward, particularly in relation to a form of off-payroll working, where individuals work via their own personal service company (PSC) (generally an owner-managed company which contracts to provide services to the engager). This is a common arrangement. Both the private and public sector engage the services of PSCs (sometimes referred to as ‘intermediaries’ since they stand between the worker and the engager). Such arrangements have long been the subject of debate in terms of the potential for tax avoidance. Complex tax law, the Intermediaries Legislation (also known as IR35, after a press release of this name) exists to target tax advantages that PSCs may gain and departments may need to refer to this legislation in seeking assurance of tax positions. To help with understanding of the legislation, departmental staff have attended ‘masterclasses’ and sought other help. Costs may be incurred both in this respect and in terms of increased administrative responsibilities. Perhaps therefore the protection of taxation revenue and the attempt to ‘avoid tax avoidance’ comes at additional cost to the taxpayer.

Interestingly, the obligation to seek “assurance” from workers operating via PSCs does not extend to the private sector, hence whilst the same problem exists there are in fact two

different approaches. It is the PSC arrangement within the public sector upon which this paper focuses.

Importantly, the situation above is the current position (spring 2016). The budget of March 2016 proposed that in future, the public sector will determine (rather than simply seek assurance of) the tax position of PSCs (HMRC, 2016a), as the suggestion (strongly refuted, see for instance Sweet, 2016) is that the 'issue' is more widespread than that discussed below. The proposals are open to consultation (HMRC, 2016b). The budget has made no proposal to change private sector practices.

1.2 Background

Freelancers generated a contribution to the economy of approximately £109 billion in turnover in 2015 (Kitching, 2016, p.5). This is a substantial sum. Such workers will be engaged by 'clients', to fill temporary positions and skills gaps. Despite this huge contribution to the economy, there have, for years, been questions about potential tax savings that may be made by those freelancers who operate PSCs, and the Intermediaries Legislation exists to combat this. This legislation has been the subject of various consultations and disagreements since its introduction in 2000, with many calling for it to be abolished. HM Revenue and Customs (HMRC) have, though, an interest in retaining it. HMRC estimate that tax collected is £30m, but that an additional £520m in revenue may be lost without the legislation being in place (i.e. it has a protection mechanism). As total tax at stake is therefore £550m and the estimated cost of operating the legislation is £16m, HMRC claims there is reason to retain it (HMRC, 2015a).

Estimates of the number of PSCs vary (around 200,000 according to HMRC (2014, p.135, Select Committee evidence volume) and many are engaged as part of the flexible workforce in both the public and private sectors. Indeed, recent pressure, (as discussed in Section 2) to reduce costs, coupled with the policy shift to encourage smaller businesses to supply services to the public sector, has seen decreasing levels of permanent staff in public sector employment and increased numbers of temporary staff, agency staff, and contractors etc.. This is not a new phenomenon. Whether this is a more efficient system or whether costs are actually saved is debatable. This paper addresses not the policy itself but the fact that many temporary workers are engaged in the public sector, creating additional obligations (and

potentially costs) for departments to obtain assurance about the tax position of certain workers.

This paper explores the reasons for the use of off-payroll workers, with a focus upon tax issues arising from the use of PSCs. It illustrates the general difficulties in understanding and applying the Intermediaries Legislation, with which the public sector now has to contend.

The paper is structured as follows: Section 2 considers the shift in employee status within the public sector; Section 3 considers tax issues and the PSC; Section 4 explains how the legislation should work, its complexities and opinion on it; Section 5 discusses PSCs and the public sector; Section 6 refers to evidence heard at the 2014 Select Committee in respect of public sector issues and the final section offers conclusions.

2. Changing patterns of employment in the public sector

The media interest of 2012 resulted in a review of off-payroll arrangements. Sparrow (2012) notes that Danny Alexander, Chief Secretary to the Treasury at the time, said “the review had established that “off-payroll engagement” had been “endemic in the public sector for too many years” and that in future everyone should be “paying the correct amount of tax””. Despite these comments, there seems to have been a deliberate policy to reduce permanent staff numbers within the public sector in favour of a more flexible workforce. Prior to considering the tax issues, a brief review of the literature indicating this sets the context of the paper.

The public sector has been required to cut costs and become more efficient over a number of years. Hartley and Huby (1985, p.23) refer to the Government being committed to “... allowing private contractors to bid in competition with in-house suppliers” as there could be substantial cost savings and the 1988 Local Government Act introduced compulsory competitive tendering for public bodies (Parker and Hartley, 1990). Over time, services put out to tender, including professional services, increased, (Walsh, 1995). Corby (2000, p.60) refers to a “...blurring of the public/private sector divide” observing the common usage of temporary and casual staff and noting (p.68) the desire by the Labour Government of the time to “make ‘greater use of short-term contracts for the civil service’”. Morgan and Allington (2002, p.36) note the decline of permanent staff numbers and “...the widespread use of non-standard forms of employment”. It is also suggested (see e.g. Loader 2011) that, as part of government policy, small business is encouraged to take advantage of procurement

opportunities within the public sector. There has therefore been a shift in the employment ‘structure’ within the public sector over a period of time.

The UK has an expanding sector of temporary, self-employed and freelance workers servicing the public (and private) sectors. Busby and Christie (2005, p.16) note a “remarkable growth” of atypical workers during the 30 years prior to the date of writing suggesting this is linked to increases in the service sector and “feminisation” of the workforce. Kitching (2015) notes a large expansion in the freelance workforce between 1992 and 2014. A number of studies, for example Redston (2004), Chittenden and Sloan (2007), Urwin (2011), refer to ‘push and pull’ factors which influence forms of engagement. It appears there may be a ‘push’ away from employment and a ‘pull’ towards self-employment or other ways of working.

In respect of ‘push’ factors Urwin (2011) notes that employers may wish to avoid costs associated with employment. Costs include employers national insurance contributions (NICs) (a type of payroll tax, not payable when engaging other types of worker, broadly paid at a rate of 13.8% of the ‘earnings’ (see section 3(1) of the Social Security Contributions and Benefits Act 1992) of each employee above £8,112 per annum (2016/17). There are also costs associated with employment protection legislation (Redston, 2004); and other liabilities such as pension costs.

Many ‘pull’ factors were mentioned in the 2014 Select Committee evidence. These include being one’s own boss, flexibility, freedom from employment and variations in the tax system, as different rules apply to different ways of working.

What appears to be evident is that there is a demand for, and a plentiful supply of, off-payroll workers who may be engaged in the public sector. The focus has turned towards the perceived tax savings made by such workers although interestingly little mention, if any, has been made about the tax (and other) savings (i.e. the ‘push’ factors) to the public sector in using these arrangements.

3. Tax issues and the PSC

Off-payroll workers are paid by the engager (here the public sector), but, the engager is not obliged to pay tax or NICs via the Pay as You Earn (PAYE) system. The tax position remains the responsibility of the worker. However a 2012 BBC Newsnight investigation (Sparrow, 2012) into the arrangements of Ed Lester, the then student loans ‘chief’ who was

engaged on a two year temporary contract (rather than ‘on-payroll’) and paid through his PSC led to (unproven, per Heaton, 2012) allegations of tax avoidance. It was claimed that Mr Lester saved himself a substantial amount of tax by using this arrangement. The fact that this was possible appears to have triggered investigations into the working arrangements of those engaged ‘off-payroll’ by the public sector, resulting in subsequent changes to procedures.

Before considering the tax issues of PSCs in further depth it is important to consider how the tax system leads to this position. The tax position differs depending on the status of the worker and includes some well-known variations.

Employees and the self-employed both pay income tax and NICs, yet it is more cost effective for HMRC if people are employed as tax and NICs are collected via the PAYE system. Additionally, the employer has to pay employer NICs. Different tax rules apply to employees and the self-employed; in general, the tax system (both in terms of income tax and NICs) favours the self-employed. At times therefore, the employment ‘status’ of an individual may come into question. ‘Status’ may not be easy to ascertain; it is determined by reliance upon case law, which may be difficult to interpret, as discussed in Section 4.

As an alternative to self-employment, individuals may choose to operate via a limited company. For example, an employee could leave employment on a Friday, set up a company and then sell their services (as a contractor/worker) back to their former employer the following Monday, doing the same work as previously. In many cases, a PSC is formed with a single share, owned by the director/manager of the company. The company charges fees for services and pays corporation tax and the director decides how and what to pay himself. This is usually in the form of part salary and part dividends, which do not carry NICs (for tax calculations in this respect, see Heaton, 2012).

Despite loss of employment rights via this arrangement, a PSC may be cost beneficial for both parties. The former employer is not hindered by employment laws and has no obligation to pay NICs or tax via PAYE. The company inserted between the worker and the engager prevents the engager from being seen to employ the individual, so the question of employment ‘status’ does not arise. The worker can take a mix of salary and dividend from the company, saving tax and NICs. ‘Push’ and ‘pull’ factors are relevant. Comments given in evidence at the 2014 Select Committee indicate various reasons as to why one may work via a PSC, including; branding opportunities, limited liability, ability to raise finance and ease of obtaining work - the engager may insist on the presence of an intermediary company (to

prevent employment status issues arising). It was also acknowledged that ease and inexpensive routes to incorporation (along with past incentives such as the zero percent starting rate of corporation tax between Financial Years 2002 and 2005) offer a favourable environment for the limited company structure. It may therefore be advantageous from tax (and other) perspectives to operate a limited company. The question is whether disguised employment exists? In other words, if the PSC (or ‘intermediary’) was removed, would there be an employment relationship between the engager and the worker which would not enable such advantages?

The Intermediaries Legislation (IR35) was introduced as anti-avoidance legislation to counteract these perceived problems, appearing firstly as Press Release ‘IR35’ in 1999, legislated via Finance Act 2000 and currently included in the Income Tax (Earnings and Pensions) Act 2003, Part 2, Chapter 8 sections 48-61. It was derived from HMRC’s concern about the ‘Friday to Monday’ scenario (Freedman, 2001) and the loss of employment rights, as stated in the Revenue’s discussion document when IR35 was introduced (Oats and Sadler, (2011). John Whiting, Tax Director of the Office of Tax Simplification (OTS) (cited by Sweetman, 2014) suggested the intention was to perhaps ‘push’ individuals back under the umbrella of employment. This did not occur and in the intervening years the legislation appears to have lost sight of the original intent. A description of the rules follows.

4. The IR 35 Rules

In a nutshell, the legislation states that, if ‘looking through’ the intermediary company, the relationship would otherwise have been employee/employer, then additional income tax and NICs are payable. Unfortunately this is not as simple as it seems.

A major difficulty is ascertaining ‘employment status’ which relies upon a large body of case law. This is not easy to understand and is open to interpretation, which adds further subjectivity to the general problems in interpreting complex tax legislation. Even HMRC’s own guidance manual on employment status is described by Freedman (2001, p.8) as being “...overwhelming to all but the most hardy of lay people (and to many professionals also)”. Further, IR35 applies not to business sectors, or to one situation, but, on a contract by contract basis and contractors may have many contracts over the life of the business (Loutzenhiser, 2013a). In short, there is no ‘simple rule’ to see if the legislation applies.

If it is found to apply, tax and NICs are calculated in a specific way resulting in an increased amount payable. Although the ‘disguised employment’ (and the intermediary company) are thereby ignored, no employment rights are granted to the worker. HMRC’s original proclamations for this legislation are therefore not borne out by the operation of it. Busby (2002, p.176) suggests this creates a third category of worker, a “quasi-employee”. Yet the responsibility for payment of tax and NICs (and therefore for the operation of the legislation in general) rests with the intermediary company, not the engager, and Redston (2009) observes that:

“Those within IR35 thus make a greater contribution to the Exchequer than a ‘real’ employee, because their service companies pay both employer and employee National Insurance contributions, but they receive none of the social protection given to regular employees”.

The original intention had been for the engager to determine if IR35 applied, but amended legislation as a result of lobbyists imposed the responsibility for ‘getting this right’ onto individual workers (Freedman, 2001). It created certainty of position for the engager, but confusion and uncertainty for the owner-manager. The engager was effectively absolved from responsibilities regarding the worker’s tax position. This loss of responsibility has now shifted slightly with regard to the public sector. It may reverse entirely depending on the outcome of the consultations of the budget proposals of March 2016.

IR35 is a curious mix of employment and tax law, which does not deal with underlying issues that were identified at the time of its enactment (such as loss of employment rights). Evidence from the 2014 Select Committee indicates that advisors, workers, trade associations etc., find IR35 difficult to grasp, describing it as “complex”, “unsatisfactory” and “disappointing”.

The legislation has been described as “the cat-and-mouse game” (Loutzenhiser, 2013b, p.406), “confusing” (Freedman, 2001, p.3), “...causing as many problems as it seeks to resolve” (Lagerberg, 2004, p.269), having “underlying structural issues” (Leighton and Wynn, 2011, p.32), “...little used and “largely ‘managed round’” (OTS), cited in Loutzenhiser 2013a, p.44), “...almost impossible for the Revenue” to administer (Oats and Sadler, 2011, p.135): and Leighton and Wynn (2011, p.28) noted tensions between the need for “freedom of contract” and “interventionist tax regimes”.

Further analysis of the 2014 Select Committee evidence reveals additional illustration of opinion on the ground from stakeholders, describing the legislation, for instance as; “flawed”, “costly”, lacks “clarity”, “burdensome”, “ineffective” and [creates] “doubt” [and] “worry”. Nevertheless there were some comments in support, such as; “appropriate”, “reduces compliance burden” (of the engager), “fit for purpose” and “works very well”.

Despite the difficulties, it rests with the worker, or their advisor to ‘get it right’. To do this may require consultation of myriad items of HMRC material, serving to illustrate the complexities. This includes; news and updates, guidance on employment status, frequently asked questions, scenarios, minutes of an IR35 forum (to help with administration) and details of HMRC’s contract review service. A brief search of the internet shows numerous specialist firms offering advice. There are various organisations assisting contractors, indeed one, the Professional Contractors Group (PCG) (now known as The Association of Independent Professionals and the Self-Employed (IPSE)) was set up in response to the legislation (Freedman, 2001). The PCG fought the legislation (for detailed consideration, see Busby, 2002), but having failed; is now involved in discussions representing its members in the many debates, and observed at the 2014 Select Committee, that the tax system was outdated and needed change to deal with new, flexible ways of working.

There have been several reviews of the legislation, but dissatisfaction remains, with many calling for it to be abolished. It is a regular topic in the professional press. In 2011, the OTS considered IR35 as part of their Small Business Tax Review, making various recommendations; the preferred option was to suspend the legislation with a view to abolishing it. In 2013 the House of Lords Select Committee was convened to hear evidence around the legislation, issuing a report in Spring 2014, followed in June 2014 by the response of the government, the upshot being ‘no change’. Another consultation followed in the summer of 2015 (HMRC 2015b) and the government’s response is awaited (Seely, March 2016). In addition the government has issued consultation on the March 2016 budget proposals (HMRC, 2016b). It is also of note that the government introduced a new dividend tax from 6 April 2016 (HMRC, 2015c) which may affect the tax benefits of operating via a company in future.

Despite the above, the public sector worker now has to provide assurance of tax position and departments have to identify whether sufficient assurance is obtained; if they do not, there are financial penalties. The ‘assurance’ requirements are discussed below.

5. PSCs and the Public Sector

The findings of the review into ‘off-payroll’ working were documented in the 2012 HM Treasury “Review of the tax arrangements of public sector appointees”. In its Foreword Danny Alexander MP indicated there was a “lack of transparency around the tax arrangements of key public sector appointees” and suggested a “three pronged approach” to dealing with these issues, whilst trying to avoid increasing administrative burdens. The result was to ensure that senior staff are treated as employees (but for exceptional circumstances) and for other workers (earning above £220 per day with contracts in excess of 6 months) assurance as to their tax position should be sought. The third “prong” was in relation to monitoring and sanctions for departments. Guidance for departments was contained in Procurement Policy Note (PPN) Action Note 07/12, (subsequently amended by PPN Action Note 08/15). The organisations affected are those covered by the Managing Public Money (MPM) requirements (HM Treasury guidance against which department spending is audited) which states that arrangements to avoid tax are forbidden as “...any apparent savings can only be made at the expense of other tax payers and other parts of the public sector” (HM Treasury review, p.5) and include central government, NHS Trusts and non- maintained schools. Although local government, the BBC and Devolved Administrations were not included under the MPM remit; they were instructed to take note of the requirements.

Off-payroll engagements costing departments more than £58,200 per annum were included in the review (p.7). This identified more than 2,400 engagements, of which 85% were for more than 6 months. 5% were senior staff. In terms of classification, less than 5% were individuals, 85% were paid via agencies (some of which may be PSCs, although numbers were not identifiable (Alexander, HC Deb, 23 May 2012)) and 10% worked directly through PSCs (relatively few).

For PSCs which cannot demonstrate that all company income derived from the engagement is subject to PAYE and NICs, the following rules apply.

Action Note 07/12 indicated that contractors should produce evidence as to whether they were inside or outside the IR35 rules. This required workers “... [to] show that their service company is low risk for IR35 according to HMRC’s “business entity” tests” [tests which have since been scrapped, see below]. If workers were “medium or high risk” according to the tests, but believed they were outside the IR35 rules, then assurance would have to be

provided “in a different way”, with the suggestion that a contract review by HMRC’s helpline would be sufficient. If the contract were within IR35, evidence was required that IR35 rules operate. The note also indicates:

“If the department is not satisfied with the evidence ... they may send details to their CRM [Customer Relationship Manager] ...to be considered alongside other intelligence to support HMRC’s work to tackle non-compliance.”

Action Note 08/15 amended the above after the business entity tests were scrapped, leaving as the only options a contract review or evidence that IR35 rules are in operation. The departments’ responsibilities were also amended, indicating that they “may seek advice from their HMRC CRM but ...cannot make a referral to HMRC’s Tax Evasion Hotline in lieu of deciding if a worker has provided assurance...referrals...are to be made when a worker has failed to provide assurance and the Department has terminated the worker’s contract, unless the worker has already left the Department.”

Action Note 08/15 indicated that departments should not accept a contract review at ‘face value’, as they need to have “confidence in the results of any contract review.” A link is provided to guidance material on HMRC webpages. This seems to suggest a reasonable working knowledge of this legislation is required.

The business entity tests (mentioned above) were introduced by HMRC following recommendations from the OTS. These were tests against which workers could score themselves to indicate whether they were at high, medium or low risk of an IR35 HMRC investigation, but achieving a low risk score did not necessarily mean that IR35 did not apply. Following evidence (Hart- Garbett, 2015) that these tests were being used inappropriately (contriving answers to derive low scores, for example) and in a manner in which they were not intended (Action Note 07/12 perhaps being a case in point); these tests have now been removed.

It is also interesting to note that the BBC has devised its own tests for employment status – which has attracted criticism as bearing no resemblance to the ‘usual’ tests for employment, Contractorcalculator.co.uk (2014).

The requirement to obtain assurance of a worker's tax position has prompted discussion in the professional and contracting press, much of it critical. As indicated at the commencement of this paper, many see contractors as being vital to the public sector, offering skills 'as and when' required. PSCs are a legitimate way of working, and Chris Bryce of the PCG warned against a "witch hunt" by the media and called for limits to "hysteria" (Contractor UK, 2012a). The new rules have been described as a "sledgehammer to crack a nut" (Andy Chamberlain of IPSE quoted in Contractorcalculator.co.uk (2015)) and "...an extraordinary reaction to a barely recognisable problem" (Stuart Davis, chairman of the Freelance and Contractor Services Association (FCSA) in Contractor UK, 2012b). It is also suggested that taxpayer value has in fact been undermined by these rules (Kelly, 2012) (as NICs and pension contributions will be payable in respect of senior staff now treated as employees).

Given the complexities, it is perhaps not surprising to find departments accused, by the contracting press, of being 'overzealous' in applying the rules and there being a lack of consistency between departments (Cottrell (n.d.)). Additionally, Contractorcalculator.co.uk (2013) cites opinion suggesting some contractors had ceased working in the public sector. Nevertheless a review of all off-payroll workers in March 2015, suggested that 96% were in fact compliant with the relevant rules (HM Treasury, 2015).

The public sector remit re tax compliance activities continues to expand, as further initiatives have followed. For example, since 2013, in order to obtain business via the public sector, potential suppliers have been required to certify aspects of their own tax compliance activities (PPN Action Note 04/13, (as subsequently amended by PPN Action Note 03/14)).

6. Select Committee Evidence re the Public Sector

The Select Committee on Personal Service Companies was set up in 2013, chaired by Baroness Noakes. Its terms of reference were to consider the consequences of the use of PSCs for tax collection. One of the specific questions for consideration related to the use of PSCs in the public sector. Evidence was called for and received from a number of interested parties.

Some evidence confirmed the general problems above. The BBC noted problems with identifying employment status and the difficulties of relying on case law and indicated the need for clearer guidance from HMRC. They remarked that; "This places an increasing

compliance burden on any organisation requiring support from a flexible workforce, as the responsibility for the misclassification of employment status falls directly against the engager.” There had been a practice of engaging a flexible workforce through PSCs at the BBC (avoiding employment status issues for them); although as new employment tests have been agreed with HMRC, this practice is no longer necessary. The Department of Health and Local Government Association noted the requirement for ‘training’ about IR35 and indicated ‘master classes’ were available to help them comply with the Treasury requirements, which they thought, aided understanding.

Other comments from stakeholders extracted from the evidence included; “fiasco”, “complete lack of consistency across departments”, “widespread confusion”, “complex”, “difficult to interpret and implement”. The FCSA had experience of “public sector organisations completely misunderstanding what “required assurance” requires/involves”. Nevertheless, the evidence revealed that guidance about implementing the new provisions was improving with time.

Care UK, a health and social care provider, was concerned that a restriction on PSCs “for highly skilled GPs and consultants would be detrimental to filling shifts...” Others giving evidence supported the use of a flexible workforce to fill a skills gap. Concerns were raised about the cost of adding individuals to the payroll in terms of NICs and employment protection legislation.

7. Conclusion

Operating a PSC is a common arrangement for flexible workers whose services continue to be in demand. The Intermediaries Legislation (IR35) however is not easy to apply given its links with employment law and tests of status which are reliant on case law. The insertion of a company between the engager and worker removes uncertainty of employment status for the engager; hence in the private sector engagers are generally happy with the legislation as it stands. The public sector however now has to seek assurance from workers that their tax position is correct. But it can be difficult for a worker be certain of their position in relation to these rules; and opinion may need to be sought, for each contract, via a contract review service, in order to provide assurance required.

The rationale behind the requirements is acknowledged, yet even those who describe themselves as ‘experts’ are often left uncertain whether a contract is clearly caught by IR35, as evidenced in comments made to the Select Committee. The complex legislation makes certainty difficult as highlighted by both academic commentators such as Freedman (2001) and Loutzenhiser (2013) and the contracting press, for instance Contractorcalculator and Contractor UK.

The lengths to which public sector departments have had to go to get to grips with this legislation (e.g. attending master classes and not accepting assurances at ‘face value’) suggest potentially high compliance costs. The numbers of affected companies are not particularly clear (there could be relatively few), but despite this, given the issues discussed, one could question the net benefit derived for the taxpayer. Additional research may be required to ascertain the costs of these measures and views from the public sector could be sought. The continued use of IR35 legislation in its current form has been called into question many times, but it seems to have become an intractable problem. Despite the expense of numerous consultations and debates, there have been no significant changes to the legislation in its 17 year history. Whether changes occur from the summer 2015 consultation and/or the consultation of the March 2016 budget proposals remain to be seen. In the meantime, the need to confirm employment status is particularly onerous for the public sector and while the costs of implementation remain largely hidden, it is likely that IR35 will remain a burden for the foreseeable future.

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