



## IR35 AND RECRUITMENT CHALLENGES IN THE COLD CHAIN

From April 2021 (delayed from 2020 due to the Covid-19 pandemic), new tax changes came into force affecting temporary workers or sub-contractors employed through an intermediary (known as a Personal Service Company or PSC), such as an agency. Referred to as 'off-payroll working (IR35)', the rules previously existed for the public sector only, but have now extended to employers in the private sector. The changes effectively mean that agency staff employed through an intermediary are likely to be subject to additional tax requirements, which could be up to 25% of their earnings. For cold chain businesses using agency staff or sub-contractors through a PSC for drivers or warehousing staff, the cost of employing such workers is likely to increase to mitigate this tax and you might be required to place the workers on your payroll.

### Why the change?

The rules are intended to end perceived tax evasion by individuals working in the role of an employee through an intermediary, such as a limited company. Working in this capacity is sometimes referred to as a "disguised employee" and enables individuals to avoid tax and national insurance contributions which HMRC intend to recover. The rules aim for these workers to pay broadly similar levels of Income Tax and National Insurance contributions as full time employees.

### Who decides if IR35 applies to a contract and what do I need to do?

From 6 April 2021, it is the responsibility of the business employing the contractor to determine whether individuals who work through their own company fall inside or outside of IR35. Where the worker is determined to be inside IR35 rules, you will need to place the contractor onto your payroll and deduct Income Tax and National Insurance before paying them.

The rules around IR35 are complex, so we recommend you seek advice on which contractors you regularly employ which this might affect. There are exemptions for businesses who receive a fully contracted out service. Effectively you need to ask yourself "would that individual be my employee if there were no PSC involved?"

### Does this apply to businesses of all sizes?

If you are a 'small company' (as defined by the Companies Act) the new rules will not apply to you. However, if you are medium or large-sized and you engage PSCs you will likely have new IR35 obligations from April 2021.

### Will this be enforced?

HMRC may choose to carry out an enquiry on anyone they suspect to be "caught" by the legislation. Following this process, HMRC will calculate the individual's total income for the period in question as salary and attempt to recoup the applicable tax and national insurance contributions previously paid as dividends.

### How might this impact recruitment for cold chain drivers and warehouse staff?

The IR35 rule changes are likely to mean that agency staff and contractors employed through PSCs are likely to cost more to hire in the future as these staff look to recoup a similar level of take home pay. This is another in a growing list of issues adding to recruitment difficulties for cold chain businesses such as:

- **Brexit:** many European workers have decided to go back to their countries of origins as a result of the UK leaving the EU.
- **Immigration policy:** the changes to UK immigration policy which came into force in January have made it more difficult for potential logistics workers to be recruited from overseas due to the unlikelihood of them meeting the UK's new points based system.
- **Covid-19 challenges,** including backlogs of driving tests and medicals and staff on furlough not returning to work.
- **Competition from other businesses and sector disruptors** eg. Amazon

### What can I do to reduce the impact of IR35 and other issues on my recruitment?

IR35 rules are here to stay, so businesses will need to think about how they use affected staff and how this might impact their staff costs. If these are considerable, businesses may wish to consider reducing reliance on agency staff, or even increasing the cost of services to mitigate cost increases.

Wider recruitment challenges are an issue across the logistics industry. Measure's businesses could take to reduce this risk include:

- Promoting staff retention and attracting staff through fostering a positive work environment, offering training (eg. Apprenticeships – the Cold Chain Federation can support this) and other staff rewards.
- Working with local recruitment services, eg. colleges, job centres and probation services to attract workers.

### What is the Cold Chain Federation doing about these issues?

We are working with other trade associations such as the RHA to highlight the issues around IR35 and wider recruitment challenges to HMRC and other Government departments. Part of this work includes pressing for logistics services to be recognised more favourably by the UK's immigration system.

### How can I raise concerns or queries?

We want to hear from you to understand your specific recruitment challenges and how IR35 is impacting your business, this will be crucial in helping us seek resolution from Government on these issues.

As first step, please get in touch with Tom Southall, Cold Chain Federation Policy Director: [tom@coldchainfed.org.uk](mailto:tom@coldchainfed.org.uk), or Shane Brennan, Chief Executive: [shane@coldchainfed.org.uk](mailto:shane@coldchainfed.org.uk).