

News

HR teams warned of contractor 'chaos' as chancellor signals IR35 extension

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By **Annie Makoff**

Private sector businesses may have to determine employment status for freelancers after government consultation

HR professionals in the private sector are being told to prepare for significant upheaval in how they manage relationships with freelance and contingent employees, after the chancellor used yesterday's budget to announce a consultation on extending IR35 tax legislation beyond the public sector.

In a technical statement accompanying the main budget announcement, plans were outlined to consult on ensuring that "individuals who effectively work as employees are taxed as employees", with specific mention made of the personal service companies used by many contractors for billing purposes.

IR35 status for public sector contracting, which came into force last April, has put the onus on employers to deduct tax and national insurance contributions from contractors' pay at source. But the reform has caused considerable difficulties for some public sector HR teams

Colin Morley, professional services director at recruitment firm Harvey Nash, said the new proposals were a "slap in the face" to the UK contractor workforce, although others welcomed the fact that a consultation was taking place and some suggested a full rollout of the IR35 into the private sector may not take place.

In June, People Management reported that many public sector contractors were taking early retirement as a direct result of the IR35, while in October recruiters warned of a 'talent drain' and revealed that the number of public sector contractor placements had fallen. There have also been fears that the legislation was having a negative impact on public sector pay.

For its part, HMRC has defended the IR35 on the grounds that it promotes greater fairness in the tax regime and ensures employees do not take on an unfair proportion of the tax burden. It has also been speculated that a broader application of the IR35 across all sectors will lessen the negative impact on individual sectors.

However, Dave Chaplin, CEO and founder of ContractorCalculator, led complaints from freelancers. "The public sector IR35 reforms were a mess, are still a mess and there are lawyers lining up to potentially launch a judicial review," he said.

"Rolling out the reforms to the private sector will be like pouring glue on the flexible economy. Taxes will decrease as people move from lucrative freelancing to lower-paid permanent work and the cost of hiring the

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"We've seen public sector bodies encounter significant problems with the IR35," he said. "It's created a big impact on the delivery of public services. Hundreds of contractors have decided to leave as a direct result of the IR35, which has led to projects being delayed and there's been a massive impact on delivery of public services. TfL repairs on London Underground have been delayed as they've not been able to access contractors and there have been problems too in the NHS with locum doctors leaving."

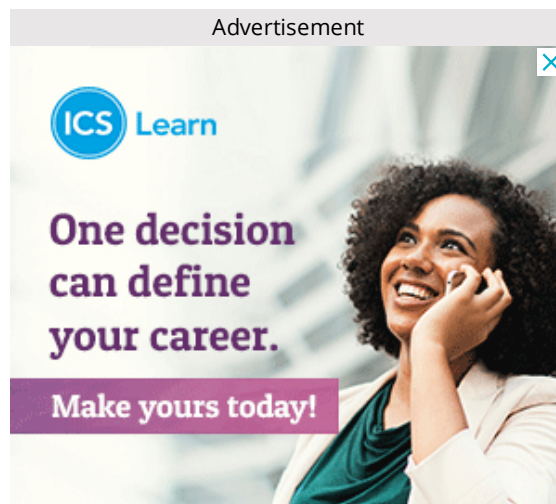
Meanwhile, a survey of 600 employers carried out before the budget by The Recruitment & Employment Confederation (REC) found that more than half of employers would need to 'take action' if the IR35 was rolled out to the private sector. Almost a third (30 per cent) said they would have to increase prices and two in five expressed concerns that not enough permanent workers would be available to meet their demands.

But Lewina Farrell, solicitor and head of professional services at the REC, said there was "no immediate need" for HR teams, hiring managers or recruiters to start bringing contractors working in the private sector onto payroll as an IR35 extension was "by no means a firm decision" and a "genuine consultation" was being carried out before any decision was made.

She advised that HR teams would, at some point, need to familiarise themselves with the IR35 and the tests used to determine self-employed status. They would also need to conduct a detailed analysis of their contractors to understand who they would expect to come inside the IR35, she added.

James Poyser, CEO of online accountant inniAccounts, said: "I'd suggest that HR has proactive conversations with contractors. Lots of contractors are very well versed in the IR35 and they would help shape plans for managing any changes and determining the internal training that will have to happen for people regularly hiring freelancers.

"The bottom line is that if HR and contractors can work together, they can protect the flexibility and strategic advantages working with contractors brings."





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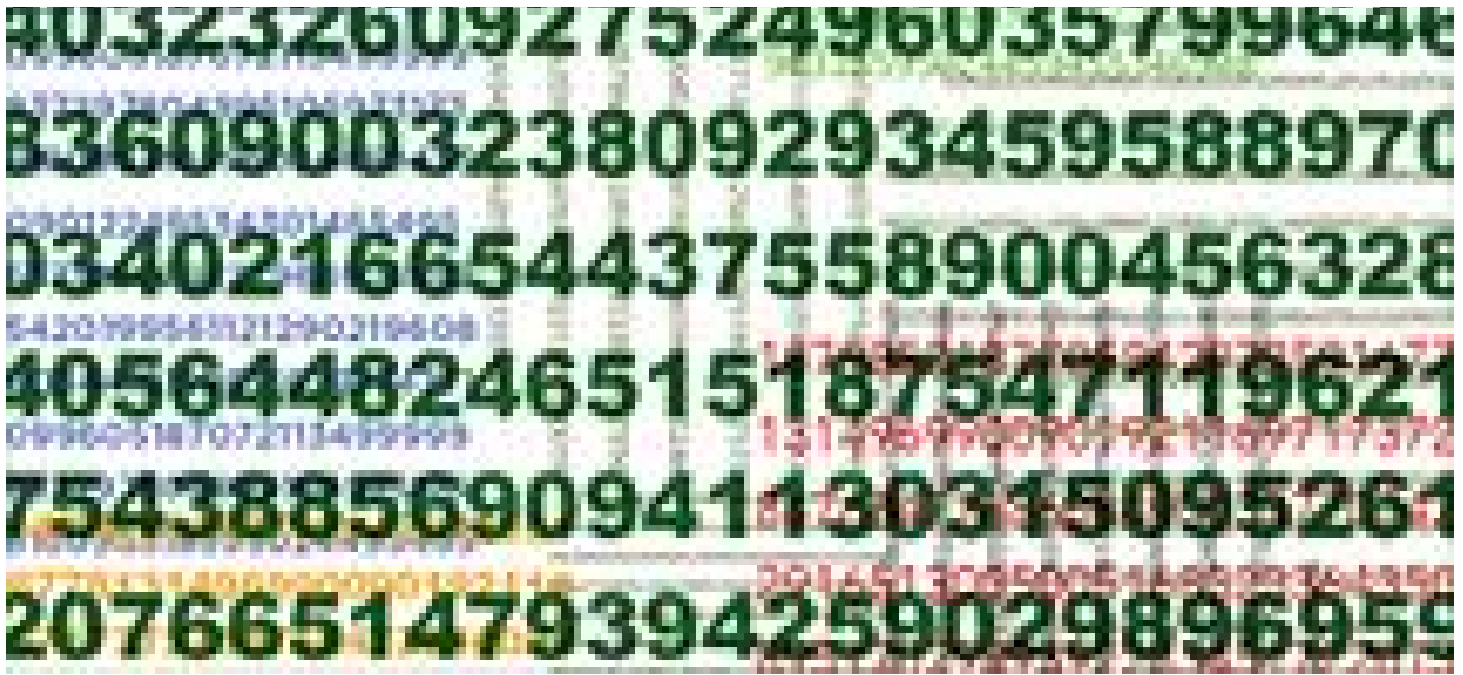
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