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IR35 Employment Status Considerations

The considerations provided below are not legislatively defined, but are instead based on significant case law surrounding employment status. It is important to note when considering employment status that one factor in isolation will not provide a definitive answer to what that status is. Instead, the overall picture must be considered surrounding the individual's working practices and the formal contract. Please be aware that an individual's employment status is solely an opinion unless ruled by a court.



Substitution

Does the individual have to personally provide the services, or can they provide someone else to produce the service at their discretion?

Can the end client refuse a substitute on grounds other than that the substitute does not have the required experience / qualifications?

Does the individual source and pay any substitute directly?



Control

Does the individual have the freedom to decide how, what, where and when they carry out the work?

Does the end client have a say in how, what where and when the individual carries out the work? i.e. they stipulate that the work must be completed in normal working hours, Monday to Friday between 9am and 5pm?

Is the individual ultimately under the supervision, direction and control ("SDC") of the end client?

Does the individual have to request time off?



Mutuality of Obligation

Is the individual obliged to accept work from their client?

Is the end client obliged to provide the individual with paid work?

Is there a notice period, contractual or implied?



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Number of Paymasters

Does the individual solely work for one end client with their only income coming from that client, or are they engaged with a number of other companies and therefore have a number of paymasters?



Equipment

Is the individual required to provide their own equipment to carry out the work or is this provided by the end client?



Financial Risk

Is the individual at financial risk by being engaged as a contractor, i.e. are they personally responsible for fixing anything the client is not happy with or will the client pay them for their time to fix anything?

Are they genuinely in business for oneself?



Other

Could the individual be viewed as part and parcel to the end client's business and integrated as such that it is not clear they are a contractor? i.e.

- + The individual wears the same uniform as employees
- + The individual has a Company email address or business cards which do not specifically state that they are a contractor
- + The individual attends the staff Christmas Party at no charge
- + The individual has a designated parking space and desk at the end client's premises