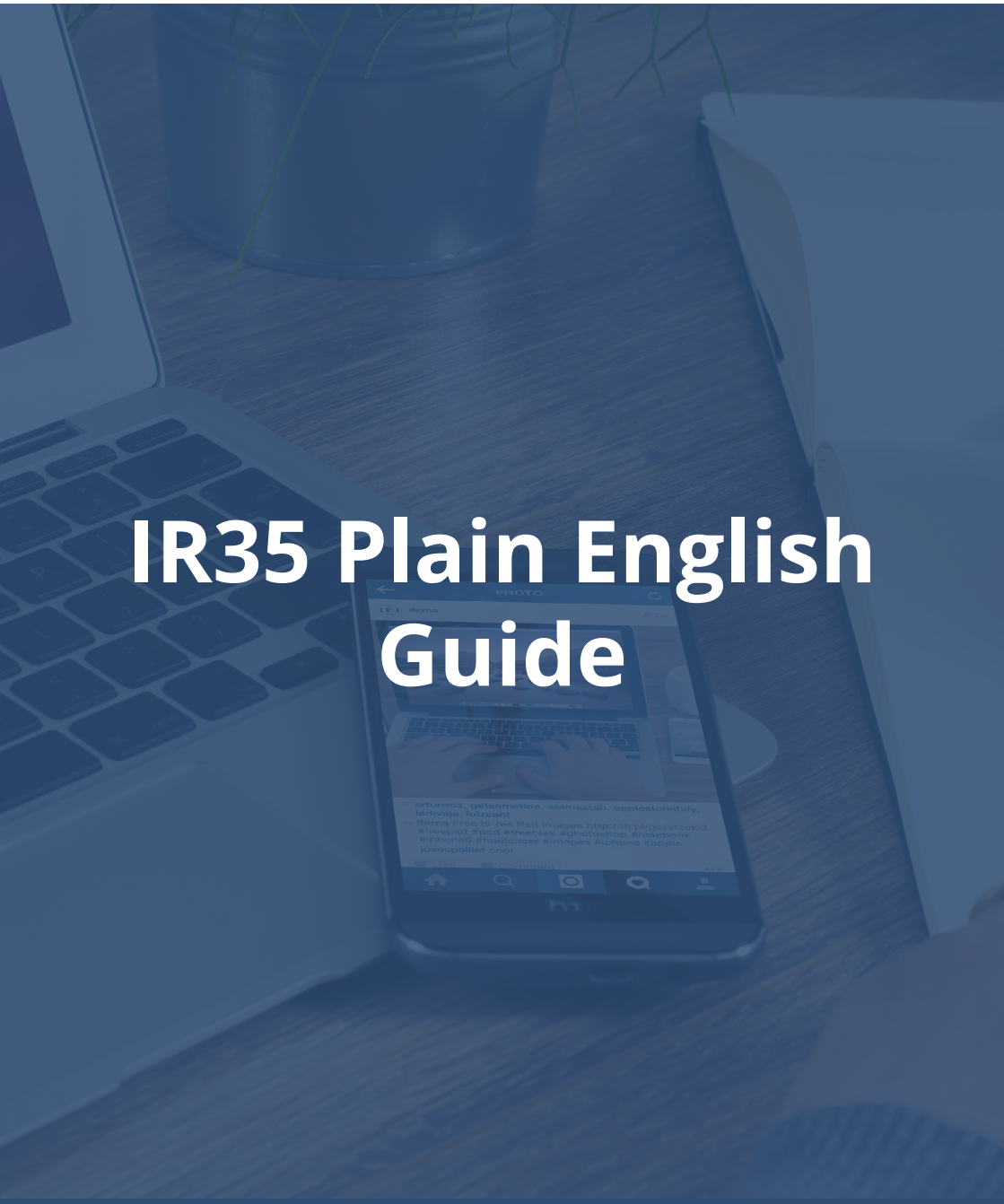

IR35 Plain English Guide

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1 WHO ARE WE?

If our name sounds familiar, don't be surprised. Dolan Accountancy was set up by Simon J Dolan, the man behind the well-known brand SJD Accountancy. After selling the business in 2014, Simon watched the market very closely – deciding in 2017 to come back into the accountancy world that he knows so well, but to do things a little differently. We thought it might help if he explains why . . .

Introducing Dolan Accountancy

"I believe that enabling each contractor client to have proactive advice from their dedicated accountant is vital, but many firms have moved away from this level of service in favour of a more impersonal approach. These companies, and even those who have retained an element of personal service, are not embracing new technologies to make their clients' lives easier – choosing instead to use technology to increase their own margins and to mask internal inefficiencies.

I wanted to start again from scratch, with no legacy issues, providing you with a service that is second-to-none, based on my years of experience in building up the UK's largest contractor accountancy firm. My experience in other industries such as aviation and engineering has helped me to understand how efficient processes can transform my business and yours, and this is what we intend to do. I look forward to taking that journey with you."

The outcome of all this is Dolan Accountancy – dedicated contractor accountants delivering a combination of experience, service and technology for just £125.00 + VAT per month, one of the lowest rates in the industry.

Do you want to join our contracting revolution?

Call Jaime on 01442 795 100

2 WHAT IS IR35?

In short, IR35 is a piece of legislation which was introduced in April 2000, to guard against what HMRC refers to as 'disguised employment'. For example if you were to leave your employer on a Friday afternoon and go back on the Monday as a contractor, with all of the benefits that brings - but essentially doing the same job and having the same low level of risk - then you could be classed as being within IR35 legislation, or 'inside IR35' as it is generally phrased.

The purpose of IR35 legislation was to stop people doing this. The argument being that, if they were still working for the same employer, without taking on any of the risks of operating as a limited company contractor, then they shouldn't have access to any of the benefits which that brings – such as better tax planning opportunities, and the ability to reduce their tax and NI liability.

WHAT DIFFERENCE DOES IT MAKE TO YOUR INCOME?
If your contract is deemed to be inside IR35, then you have to pay the full amount of tax and National Insurance contributions on your income, as you would if you were an employee. Which means you are not able to take advantage of the option to pay yourself a low salary and top it up with dividends – so many of the benefits of running a limited company are reduced. You also have a reduced allowance for expenses, meaning that you can only claim tax relief for certain things. These include:

- Employer contributions to approved pension schemes
- Gross salary paid, plus any employer's NI contributions
- 5% of your gross income from relevant engagements, to cover your running costs
- Professional subscriptions
- Professional indemnity or personal liability insurance

We thought it was worth expanding on a couple of these in a little more detail, as follows:

Pension contributions
These become very important when your contract falls inside IR35, as they can be offset against your tax liability - they are deducted before your 'deemed salary' is calculated. This means you save on the income tax and NI that you would normally have paid, and your limited company also avoids the employer's NI contributions as well.

A 5% flat allowance of gross income
This is intended to cover general company running costs (such as accountancy fees). However, please note this 5% deduction is only available if your end-client is a small private sector business or based entirely overseas. If your contract is with a public sector body or a medium-to-large private company, this allowance has been abolished and cannot be claimed.

3 HOW IS IR35 STATUS DETERMINED?

The first thing to explain here is that IR35 status relates to a contract, not an individual. So when you consider a new contract, you need to understand whether the terms of that working relationship are 'inside' or 'outside' IR35. However, this can be quite difficult, as the specifics of how your relationship with your client will operate may not be known until you have already started working for them.

As far as it can be determined, a contract is classed as being inside IR35 if you will have 'the same level of risk, responsibility, liability and control' as a permanent employee within the same business. In effect, HMRC believes that, while working in this contract, you would not be taking on the financial risks of being a limited company contractor, as the terms of your role are the same as that of an employee - making you a 'disguised employee'.

We thought it might help to give you some examples of working practises which may increase the chances of your contract falling inside IR35:

- You are told how to do your job, rather than bringing your expertise to the client's business
- You would not be allowed to send a substitute who has the same expertise in your place
- You are not allowed to take on other work while under contract to this client
- You have appraisals which relate to your personal development, not just your job role
- You are given a line manager who manages you in the same way their as employees

There are also a number of more 'practical' matters which could also affect how a contract is seen, for example:

- You are given a company business card which makes you look like an employee
- You are not asked to wear a visitor badge while on your client's premises
- You are allowed to use a subsidised staff restaurant
- You are invited to the staff Christmas party
- You are given other staff benefits

As you can see, some of these practises could easily creep in, especially if you are with a client for a long time, so it's important to understand the implications. At the end of the day, it is partly your responsibility as a contractor, and partly your client's responsibility in how they treat you, which can make the difference. As HMRC puts it, is your relationship with your client 'indicative of an employer/employee relationship?'.

A good accountant, including ourselves, will offer a detailed IR35 review and can give you a professional opinion as to its status – although this will never be 100% foolproof.

4 WHO DECIDES YOUR IR35 STATUS?

This one has recently become far more complicated, as the rules for IR35 in the public sector changed in April 2017. Let's look at each in turn:

Small private sector companies or clients based entirely overseas
You are responsible for determining the IR35 status of your own contract, and for making sure that your client treats you in an appropriate way if you consider it to be outside IR35. Bearing in mind though that, if you get it wrong, you will be liable for back taxes and very possibly fines as well.

If you determine that your contract is outside IR35, you need to be as sure as you possible can be that this is correct. There are many companies who will offer to give you an 'IR35 Assessment' based on the terms of a paper contract, but this is never 100% reliable - as it all depends on working practises, and how you are treated in the workplace. Be very wary of these types of assessments, and do not rely on them when deciding on your status.

Public sector
As of April 2017, the rules for public sector contractors changed, meaning that the contractor is no longer responsible for determining the IR35 status of their own contract. This change was made as the government felt it was losing out on additional income due to the fact that contractors were incorrectly assessing their IR35 status – and while they could be identified and fined, this was not happening in the way it should be, leading to high levels of lost revenue. For medium to large private sector companies and Public sector, the client must determine your IR35 status – and provide you with a Status Determination Statement (SDS) explaining their decision. If your client has no UK connection or presence, you remain responsible for your own assessment.

With the new system, the responsibility for determining the IR35 status of a contract falls to 'any other third party who is closest to the limited company contractor' – so in effect, the organisation that pays you. This is because they are the ones who would have to deduct the tax and NI from your payments each month, if your contract is deemed to be inside IR35. That third party could be the client themselves, but in reality it is more likely to be a recruitment agency.

The reality of this change is that clients and recruitment agencies are likely to err on the side of caution, and may in fact insist on classing a contract as being inside IR35, just to be on the safe side, which significantly reduces the benefits of operating through a limited company.

Do you want a FREE IR35 contract review?
Call Jaime on 01442 795 100

5 IF YOU'RE INSIDE IR35, IS IT WORTH OPERATING AS A LIMITED COMPANY?

The reality is that, if your contract is inside IR35, then you will end up paying the same amount of tax and NI as someone who is an employee and earning the same salary, so the ability to earn more is taken away. However, there are other benefits which still make it worth setting up a limited company:

- This contract may be inside IR35, but your next one may not be, so you need to plan for the longer term.
- You have 5% of your turnover available to cover expenses – but only if your end-client is a small private sector business or based entirely overseas.
- You can still earn interest on any funds which are held by your company.

6 WHY CHOOSE DOLAN ACCOUNTANCY?

We have the heritage, reputation and credibility of the Dolan name - coupled with our firm financial footing, our money back guarantee, and of course our ability to offer you the best possible price – just £125 + VAT per month. We believe this makes the decision to choose Dolan Accountancy crystal clear - and we hope you do too, once you've had time to understand our level of knowledge and experience.

WHAT DO WE OFFER?

- Free limited company formation
- 12 month's free business banking
- FreeAgent™ online accounting software
- Free Registered Office address
- Free Director's Service address
- Your own dedicated accountant
- Money back guarantee

Our money back guarantee is very important to us. We have been in the industry long enough to know that service is everything. We know you want a fast response to any queries you may have and an efficient and friendly service at all times. As such, we guarantee that if we fail to deliver on any one of the points below, in any given month, we will refund your entire £125 + VAT fee for that month. Just let us know where we failed and we will arrange your refund – as well as dealing with the issue in question of course.

- When you become a client, your dedicated accountant will be in touch within one working day of your signed contract being received by us.
- If you email us before 4pm on a working day, we will respond the same day – if after 4pm, we will respond by the end of the next working day.
- Subject to all appropriate information having been received, draft Company Year End Accounts will be sent to you for approval within 15 working days.
- We will ensure that our client/accountant ratio is always maintained at a level that enables us to provide an exemplary level of service.
- If you do have to leave us a phone message for any reason, we will respond within one working day.
- If you send us a letter, we will respond within two working days of receipt.

ARE YOU READY TO JOIN DOLAN ACCOUNTANCY?

Give us a call
on 01442 795 100