

Tax Authority Consults on Draft Regulations for Off-Payroll Working Rules

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The United Kingdom's tax authority, His Majesty's Revenue and Customs (HMRC), has [announced](#) a consultation on calculating pay-as-you-earn (PAYE) liabilities in cases of non-compliance with the off-payroll working (IR35) rules.

The off-payroll working rules (commonly known as IR35) apply where a worker provides services to a client but is paid through a personal service company. If a hypothetical contract between the worker and the client based on the conditions under which the work is performed would have been one of employment rather than self-employment, the profits of the personal service company are subject to income tax and National Insurance as though the worker would have been an employee of the client. In some circumstances, the client engaging the worker is responsible for determining the employment status of the worker, and for ensuring that the correct tax and National Insurance is paid to HMRC. However, the worker and their intermediary company may have already paid taxes on the basis that the IR35 rules did not apply – for example, dividends rather than a salary may have been paid. Previously, there was no official means to set those payments against the IR35 liabilities.

The new [draft statutory instrument](#) published with the [consultation](#) contains detailed provisions to be inserted into the [Income Tax \(Pay As You Earn\) Regulations SI 2003/2682](#) to allow the PAYE liability due from the deemed employer to be reduced by amounts of tax already assessed and/or paid by the worker and their intermediary. It also contains the conditions under which it can apply, the mechanism of the recovery and the appeal rights associated with it. The consultation also includes copies of the draft HMRC guidance on the new provisions.

Comments on the draft regulations and guidance are welcomed and these can be sent by email to offpayrollworking.legislation@hmrc.gov.uk.

The consultation will run until 22 February 2024, after which the tax authority will review the responses and possibly revise the draft regulations before they will be presented to Parliament.

Further developments will be reported as they occur.

