

## IR35 – the University’s obligations and process for payment

From 6<sup>th</sup> April 2017 all payments made to an individual who provides services to the University or its subsidiary companies through a personal services company (PSC) will need to be paid through the University’s payroll unless the engager can certify that they are not liable for PAYE and National Insurance deductions. This certification must be evidenced by use of HMRC’s Employment Service Status (ESS) tool: <https://www.tax.service.gov.uk/check-employment-status-for-tax/setup>

### Definition of a Personal Service Company (PSC)

The generally accepted definition of a PSC is a limited company, partnership or unincorporated company that typically has one or two directors who owns most or all of the shares. The contractor’s PSC generally supplies professional services to end user clients, either directly or via an agency. The professional services are delivered by the contractor who is also the owner and director of the business.

### Exceptions to IR35

*Higher education (PG) examiners* do not need to be put through the ESS tool. They are exempt and can be paid without the deduction of PAYE or NI. These should be put through accounts payable on ABW. This exemption does not apply to UG examiners.

*A visiting lecturer* who gives an occasional talk or short series of talks on a subject about which he has specialist knowledge and which is not part of the core curriculum will normally have rather different terms and conditions and is likely to be self –employed.

Any supplier using his own *specialist equipment* to carry out the engagement is likely to be regarded as outside the scope of the legislation.

*Cast members* (actors providing a service to FMH) do not need to be put through the ESS tool. They are exempt and can be paid without the deduction of PAYE or NI. These should be put through accounts payable on ABW. This exemption does not apply to any actors engaged by other faculties.

*Overseas suppliers* – as long as the work is provided and delivered overseas these fall outside the IR35 rules.

### Self-employed individuals

Self-employed individuals should also have their status ascertained using the ESS tool. The output from the tool will be the same as the four for PSCs and they should be treated in the same way following the instructions included above.

### Determining the nature of the engagement

The new rules apply where a worker supplies services in such a way that if they had been engaged personally by the University they would have been regarded as an employee of the University. The employment status tool is designed to help make that clarification. It is an anonymous online tool and the data is not retained by HMRC. However it is essential that the output from the ESS tool is retained by the University as evidence we have checked the PSC’s employment status.

It is the responsibility of the engager to check whether or not a supply of service is from a PSC and to perform the check using the ESS tool. You may need to contact the supplier to gain assistance in answering the questions. If in doubt as to whether or not you are engaging a PSC use the ESS tool.

There are four possible outcomes from the ESS tool

- *The intermediaries legislation does not apply to this engagement (or in the case of self-employed - This engagement should be classified as self-employed for tax purposes)*

The requisition can be raised on ABW and the output from the tool should be attached to the order in ABW in the same way quotes are attached.

<https://portal.uea.ac.uk/documents/6207125/9909028/qg4.pdf/>

- *The intermediaries legislation applies to this engagement*

The supplier should be notified of this outcome and the invoice must be passed to Payroll for payment. The invoice, the form UEAPSC (found here <https://portal.uea.ac.uk/finance/forms> ) and the output from the tool should be sent to [payroll@uea.ac.uk](mailto:payroll@uea.ac.uk). The supplier is not an employee, and does not have employment benefits but the invoice will have PAYE and NI deducted and will also be subject to employers NI and apprenticeship levy (see cost implications of the reform to IR35 below).

- *This engagement should be classed as employed for tax purposes*

Please contact your HR manager

- *Unable to determine the tax status of this engagement*

Where this is the outcome please seek assistance initially from your faculty finance manager or contact [creditors@uea.ac.uk](mailto:creditors@uea.ac.uk) who will ask someone to help you. Following this initial discussion it may be necessary to speak to the HMRC helpdesk.

**It is important not to assume that any supplier already set up on ABW has passed the ESS tool check as it is possible for the same PSC to be engaged in different ways.** As an example a PSC could be asked to supply a film that they make under one contract but later be asked to provide teaching for set hours/sessions. The first contract would not be subject to an ESS check but the second would.

#### [One-off suppliers \(supplier code 80002\)](#)

The rules set out above apply to one-off payments made on supplier code 80002 as well as individual suppliers set up on ABW.

#### [Cost implications of the reform to IR35](#)

When a PSC falls within the IR35 legislation and their invoice is paid via the payroll the cost to the area purchasing the service will be the cost of the invoice (including VAT is that is applicable) and an additional charge for employers NI and apprenticeship levy.

## Agency Staff

Staff engaged through an agency also fall under the new legislation. However the difference with these workers is that as long as the University informs the agency of the employment status of the worker, the agency is then responsible for the correct treatment of any PAYE and NI deductions due.

As we assume that all agency staff will have an employment status of acting as employees, when a purchase order is raised on account code 3113 (agency staff costs) a statement will be printed on the purchase order saying “in accordance with the updated IR35 legislation all workers engaged on this contract are deemed to be acting as employees”. It is therefore essential that the purchase order is sent (emailed) and this facility is not overwritten and that the account code 3113 is used for all agency staff orders.

## Additional notes on completing the ESS form.

When you reach the end of the questionnaire there are two optional boxes:

**Optional:** you can customise this summary by adding some information before you print it. This is for your reference only and won't be stored by HMRC.

Check performed by (name)

Your reference (contractor name or contract reference)

Please make sure you complete these before attaching to the purchase order in ABW. If the check performed by box is not completed it will be assumed the person loading the form onto ABW was the person completing it.