

# THE CHEMISTRY FOR SUCCESS



## IR35 – GP PRACTICE ASSESSMENT GUIDE

### THE TEST

If your practice contracts with a Locum who makes use of a limited company you will need to assess whether their work falls within IR35. The [HMRC toolkit](#) will enable you to do this. If instead you would like us to assist, we can undertake an 'IR35 Review' of your circumstances for a fee of £150 plus VAT.

### WITHIN IR35

If the Locum's engagement with you is deemed to fall within IR35 you must contact them and tell them that you have assessed the position and believe they fall within IR35. Whilst they may seek to appeal this decision **you are ultimately responsible for determining whether or not they fall within these rules.** If the Locum's engagement with you does fall within IR35 then you should give them the option of being paid personally or continue to be paid through the limited company. If they wish to continue to use the limited company you should make payment to them under deduction of tax and NIC as if you were making payment to an employee.

### OUTSIDE IR35

If the Locum is deemed to fall outside of the IR35 legislation then you can continue to make payment to their limited company in the same way you have done in the past.

### UNCLEAR RESULT

If the HMRC online toolkit does not identify a clear answer we would encourage you to use our IR35 checking service, as outlined above.

### SELF EMPLOYED

If the Locum is Self Employed and does not make use of a limited company then they will fall outside of these rules and you can continue to pay them in the same way that you have done in the past. However, you still need to regularly assess whether such self-employed individuals are genuinely self-employed and that there isn't a risk of HMRC re-categorising them as employees in the event that your practice has a HMRC PAYE visit. As with the locum companies, we can also help you assess whether self-employed locums do indeed have the correct status.

## **PARTNERS' OWN COMPANY**

Please note that whilst these rules potentially impact the partners' own limited companies they will fall outside of IR35 as far as the income being paid from the practice is concerned. If the partners have other income which passes through their company from other engagements (sourced from the NHS) they will have such engagements assessed (by the payer) and may need to have this income paid to them personally, in line with the rules set out above.

**Should you have any further questions surrounding IR35 or the status of locums that you currently engage with then please do not hesitate to contact me.**

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