

# IR35: What are your options if you're blanketed?



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## IR35: What are your options if you're blanketed?

Over the past few weeks, a number of prominent businesses have given notice of their plans to cease engaging limited companies in advance of the April 2020 rule changes. While the ban started off in the banking sector, it's now gaining momentum among many large scale engagers in other industries. Businesses are adopting this policy to reduce risk of liability, as they will carry the responsibility for making status determinations.

Although there are a few variations on 'blanketing', the effect is the same. While limited company contractors were previously advised on how to remain IR35 compliant, this simply doesn't apply in the case of blanketing. Companies are opting out of making IR35 status determinations by saying it's their policy not to engage PSCs. Role-based IR35 determinations are another form of blanket assessing contractors.

With the final legislation due to be announced in the March Budget, just a month before the reforms are introduced, it's likely that more companies will adopt blanket policies as a contingency measure. Although experts are predicting that the ban won't last, this doesn't help affected contractors in the meantime. The question is, what can you do if you're blanketed? Although this may partially depend on the choices your engager gives you, below is a summary of the main options that contractors might have to choose between.

### Go permanent

By becoming a permanent employee of your engager, your tax and NI will be deducted by the company's internal payroll via PAYE and IR35 will not apply. This option may be offered to contractors where the company feels it can justify permanency. Because of contractual obligations, it's not likely to be offered as a temporary solution, this means that you will cease to be a contractor. If you've worked for a single client for a long continuous period of time and have previously considered going permanent, this may be the best option for you.

#### Drawbacks

- Most companies have indicated that the PSC ban is just a temporary measure. This means that once they've seen the final legislation, many firms may be inclined to change their minds and be more open to negotiation.
- Going permanent means closing down your limited company, which incurs a fee.
- Many contractors are concerned about the possibility of retrospective action from HMRC if they go permanent, although the Treasury has claimed it won't take this action unless it suspects 'fraud or criminal activity'.

### Leave the contract

If you don't want to work inside IR35, even temporarily, then leaving is another option. Depending on your skillset, it may be possible for you to find another contract with a company that isn't adopting a PSC ban, or by working for a smaller company that isn't affected by the changes. Work out what the status on most of your contracts will be and the line being taken in those sectors. If you're reasonably sure you can find an alternative contract, then leaving your present one could be right for you. Also, if your contract is short-term or nearing its end, then it could be a good time to cut your losses.

#### Drawbacks

- Companies are adopting PSC bans all the time, this means you could jump out of the frying pan and into the fire



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- If your skills are industry specific, and this industry is heavily regulated, you could find it difficult to find contracts outside IR35

## Become an employee for tax purposes – “inside IR35”

While some companies have introduced a ‘no PSC’ policy, others, like Tesco Bank and Sainsbury’s, have said that most of their contracts will automatically fall ‘inside’ IR35. If contractors are allowed to continue working through their limited companies, but are blanket ruled inside IR35, they must weigh up whether it’s financially worth it. If you work on contracts that are both ‘inside’ and ‘outside’ IR35, then it could be worth keeping your limited company but also sourcing a reliable umbrella company to give you the most contracting options.

### Drawbacks

- If you operate through your limited company on contracts that are inside IR35, you’ll be taxed as an employee without receiving any employment benefits.
- If less than 50% of your contractor income comes from outside IR35 contracts, it may not be worth working through your limited company, especially given the risks. In this instance, it may be better to go full umbrella, until companies reconsider their policy in the light of the new legislation.

## Agency PAYE

If you opt for Agency PAYE the agency will deduct tax and NICs before you’re paid, which will remove the need for an IR35 assessment. However, many agencies don’t have the resources to offer a payroll service. Contractors should understand that they’re only entitled to employment benefits if they’re classed as agency workers, which means they have a direct contract of employment with the agency following 12 continuous weeks of employment. Many agencies will want to avoid providing employee rights, as well as potentially being on the hook for unpaid tax/NICs and the Apprenticeship Levy.

### Drawbacks

- Agencies are paid by the end client and can therefore be conflicted in the advice and support they give contractors.
- Contractors can find their payments significantly downgraded to cover the increased costs to agencies and engagers, such as Employers’ NI and the Apprenticeship Levy.
- With Agency PAYE, each new contract is a separate run of employment that will end when the contract ends. In order to remain on the agency’s payroll, contractors are limited to contracts sourced via that agency.

## Umbrella PAYE

Working via an umbrella automatically removes the IR35 risk as the umbrella company becomes your employer, deducting taxes and NICs at source. You’ll still be able to operate outside IR35 on other contracts simultaneously and easily after your current contract concludes by keeping your limited company. Another advantage is that although you may have multiple contracts with different agencies and end clients, you will only have one continuous employer – the umbrella company. Umbrella companies receive their income from the contractor rather than the end client, so are more easily able to act in their best interests. With an umbrella company, you’ll automatically receive employment related benefits, such as holiday and sick pay.



## Drawbacks

- You will pay employment taxes plus a service charge, which impacts the amount you take home.
- Contractors may not be given the choice of an umbrella company if their engager requires them to go onto the payroll of the agency they use.

Ultimately, contractors have a choice whether they accept the engager's terms, or whether they choose to seek preferable ones. While many contractors are opting to wait and see what the situation will be after April, this course of action risks them being caught by blanket policy at any time. **If you're concerned that you might be blanketed, it's better to take affirmative action that eliminates risk and protects your options.**

This content has been supplied by IR35 Guru.

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