



# YOUR IR35 QUESTIONS ANSWERED!

## Are my Ltd Drivers “in scope” for IR35?

If they are under your supervision, direction and control, and you are defined as a medium or large business then yes. Typically, you will tell them:

- Which vehicle to use
- Where and when to deliver
- Where and when to collect
- To call into the office if they have any issues
- To be inducted including lots of site and customer specific rules and regulations that they must follow

If any of these apply to your drivers, then your drivers are caught within the regulations

## What will happen to the Ltd drivers' weekly earnings?

Their weekly earning will not change following IR35, however Encore will be required to deduct the Tax and employees NI from them before sending it for payment. Encore will send this to HRMC the same as a PAYE worker. This does not affect you, our client.

## Can a Ltd Driver make their partner or friend the Director of the company and work for them to avoid this?

This would not change the status as being inside IR35, so would not make any difference to their tax status.

## Will they earn more as a PAYE worker than Ltd?

The driver would be paid more over the year as PAYE. We estimate this to be approximately £2800 more for a driver working an average 50 hours per week.

## Are Encore communicating with candidates to ensure a smooth transition through IR35 in April 2021?

Yes, we are. Our candidates are the lifeblood of our business. Without them we are nothing. So, we are working with clients and drivers to ensure the smoothest possible transition through this challenging period.

## What happens if the Client says that the candidate is inside IR35 and they disagree?

The key to this will be to work with your Agency and the candidate to understand why there is confusion. The candidate may have consulted an accountant before challenging the determination. The candidates have a responsibility to protect their earnings. It is



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critical that Encore support them and you through this legislative change to minimise any impact. Their income will drop as a result of these changes, so it is important that where possible we work with candidates to ensure that their livelihood is protected, and their income is viable for them.

## What happens if the candidate disagrees with the outcome?

Unfortunately, due to the way the regulations are written they will have no choice but to accept the deductions if they want to continue in the role after April 2021. They can appeal their status with HMRC through their tax return, so they would need to speak to their accountant for more details on going down this route.

## Are Encore's contracts with candidates IR35-compliant?

Yes, Encores Ltd Co Contract is based on REC standard terms, so where you can continue to work as a Ltd Company Contractor there is no issue.

## Can candidates switch from Ltd to PAYE from April 2021?

Yes of course. 50% of Encores HGV Drivers and Engineers are PAYE, and 50% are Ltd co currently. So, if they want to switch this is fine, and will come with all the usual benefits of a PAYE contract for the candidate. All they will need to do is contact their local Encore branch where a consultant will be happy to help them.