



# YOUR IR35 QUESTIONS ANSWERED!

## I am currently paid PAYE by my agency, does this affect me?

No. This will only affect drivers who are paid through a Ltd Company.

## Am I “in scope” for IR35?

If you are are payrolled through a Ltd Company, and under the supervision, direction and control of the client then yes. Typically, the client will tell you:

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

If any of these apply to you where you are working, and you are working for a medium or large company, then you are caught within the regulations.

## What will happen to my Ltd hourly rate?

If you work for Encore, we have put in place a strategic plan to ensure that your hourly rates will not change as a result of IR35 in 2021.

## What will happen to my Ltd weekly earnings?

Your weekly earning will not change following IR35, however Encore will be required to deduct your Tax and employees NI from your invoice amount before sending it for payment. Encore will send this to HRMC the same as a PAYE worker.

## Can I make my partner or friend the Director of the company and I work for them to avoid this?

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

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

You will 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.



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

Yes, we are. Our clients are key to ensure that we can provide work for you on a regular basis. 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 I am inside IR35 and I disagree?

The key to this will be to work with your Agency and the end client to understand why they have deemed you inside IR35. They will likely have consulted a legal team before making the determination, so it is unlikely that they will have got the decision wrong. They have a responsibility to exercise 'reasonable care' on making determinations and will have thoroughly considered all aspects of your role. There is a cost impact to them of deeming you outside the regulations, and they would not have wanted to bear that if it could have been avoided.

## What happens if I disagree with the outcome?

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

## Will it put my company at risk of past IR35 claims from HMRC if I am inside IR35 post April 2021?

HMRC have confirmed they will not make retrospective claims against limited companies if they change their status from outside to inside IR35.



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## How will it work for future work?

In the future, Clients and Agencies will likely advertise roles as either inside or outside IR35. This means contractors are clear from the outset.

## Is my contract with Encore IR35 friendly?

Yes, Encores standard Ltd Co Contract is based on REC standard terms for those working inside IR35, so where you can continue to work as a Ltd Company Contractor there is no issue.

## Can I 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 you want to switch this is fine, and will come with all the usual benefits of a PAYE contract. You will even be better off than staying Ltd co. This will require a new PAYE contract between you and Encore, and some new, personal bank details for us to pay you. Please contact your local branch to do this.