

Locum GPs: how to avoid getting caught out by the tax man on IR35



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Background

IR35, or intermediaries legislation, is an anti-avoidance tax legislation designed to address tax avoidance from 'disguised employment' through an intermediary.

An "intermediary" in this sense means any company providing the personal services of an individual and in most cases (but not all) will be the worker's own limited company. The term intermediary is also used in a different but related sense to mean any entity in the employment or payment chain between the end client and the worker.

Network locum is a payment intermediary but not a contractual one. Therefore when locums find work on the network locum platform and are not operating their own limited company there is no intermediary because the locum and practice are contracting directly.

What's happening?

From the 6th of April, responsibility over compliance to IR35 rules will shift from the locum working under the intermediary, to the practice engaging that locum. The practice will be the accountable body for taxation, will need to pay a further 13.8% of the fee in Employers NIC and will have to include payments to limited company locums in the apprenticeship levy calculations.

For the purposes of this legislation, GP practices receiving public funding are identified as public sector bodies and are bound by IR35.

Why the change?

This change has been brought about to combat perceived non-compliance of the IR35 rules. If a locum was previously non-compliant they will now be made compliant, and will pay more tax as a result.

What does it mean for a locum working through a Ltd company?

Locums working through limited companies on contracts that are subject to IR35 rules will now be taxed at source for NIC and income tax in the same way as a salaried employee. The locum's limited company will receive the net amount after taxes.

This will reduce administration for locums who choose to work through limited companies as they will no longer have to administer the IR35 rules, calculate tax and pay this to HMRC.

What does it mean for locums working as a sole trader?

Locums working as sole traders are unaffected by the legislation as they do not work through an intermediary and there is no ambiguity around whether a session is deemed 'in/ or 'out' of IR35. Locums can choose to work as a sole trader for any sessional contracts they take.

How will the public sector practice determine if contracts are subject to the IR35 rules?

The underlying spirit of the IR35 rule is intended to establish if the day to day work of a contractor is or is not materially different from those of a salaried employee.

Confusion arises when looking at locuming as a whole, versus assessing an individual contractual engagement between GP and practice. Locum work is typically seen as flexible working, whereas entering into a contract to complete a session under specified terms, is not necessarily flexible by nature.

This determination is at the discretion of each practice and they will likely use the HMRC calculator to determine the position of each locum contract. The legislation includes provisions for financial penalties if practices fail to identify IR35 contracts therefore a conservative approach is expected.



Have more questions?
Get in touch with our support team
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