



Off-payroll working from April 2020

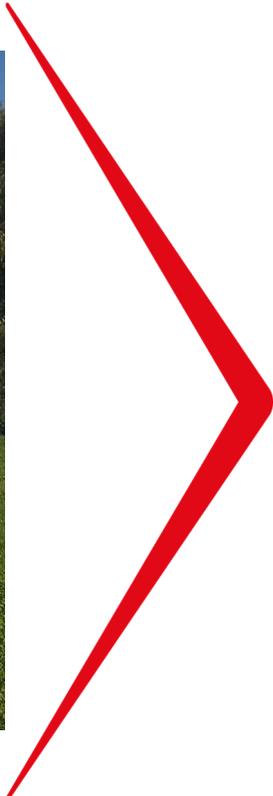
NEAL SMITH AND STEVE WADE

ICAEW EMPLOYMENT TAX AND NATIONAL INSURANCE
CONTRIBUTIONS COMMITTEE MEMBERS

7 AUGUST 2019

Agenda

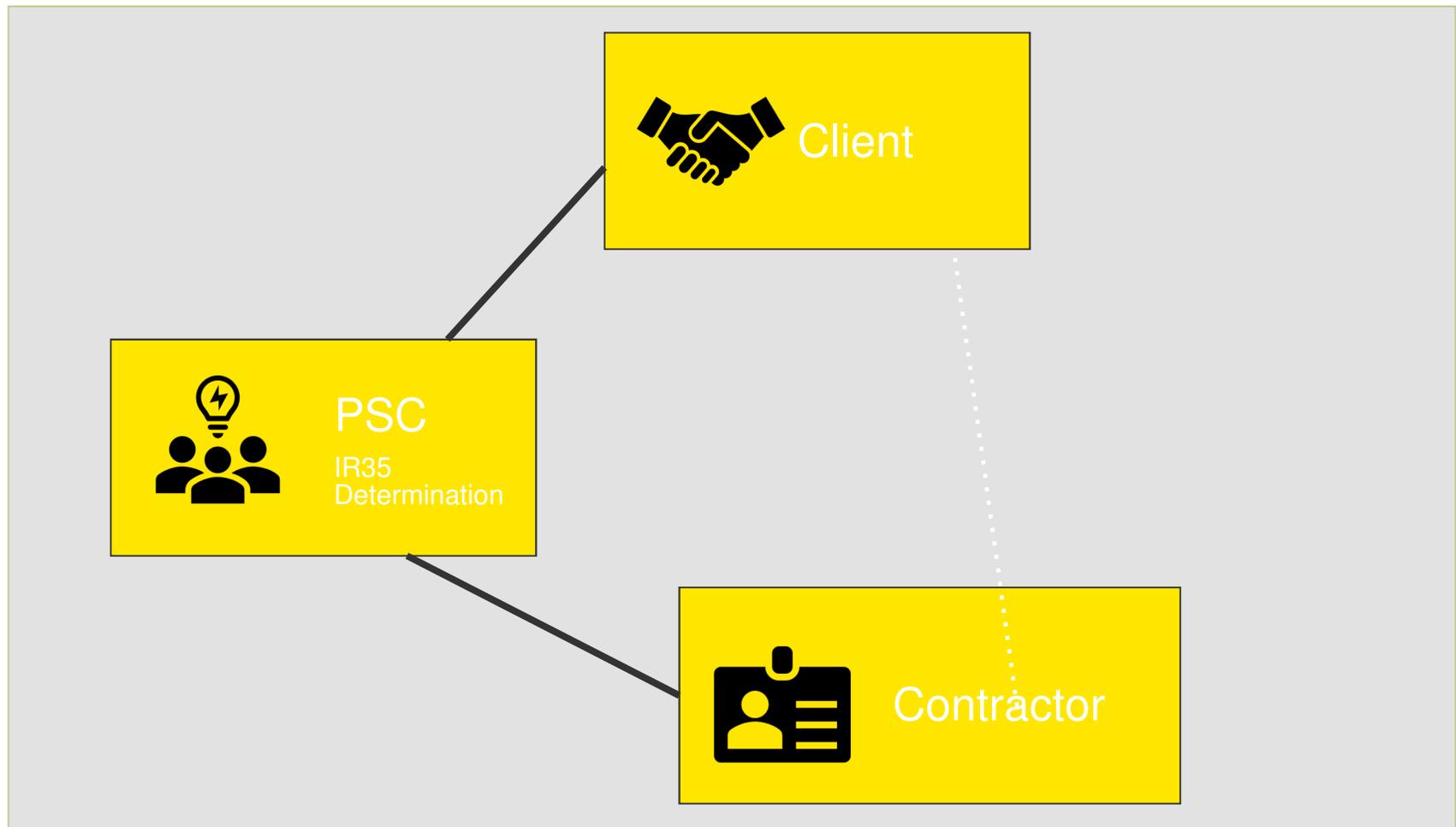
- Introduction and Timeline
- The Small Exemption
- Determinations and the Appeal Process
- What do you need to do?
- Issues
- Any Questions



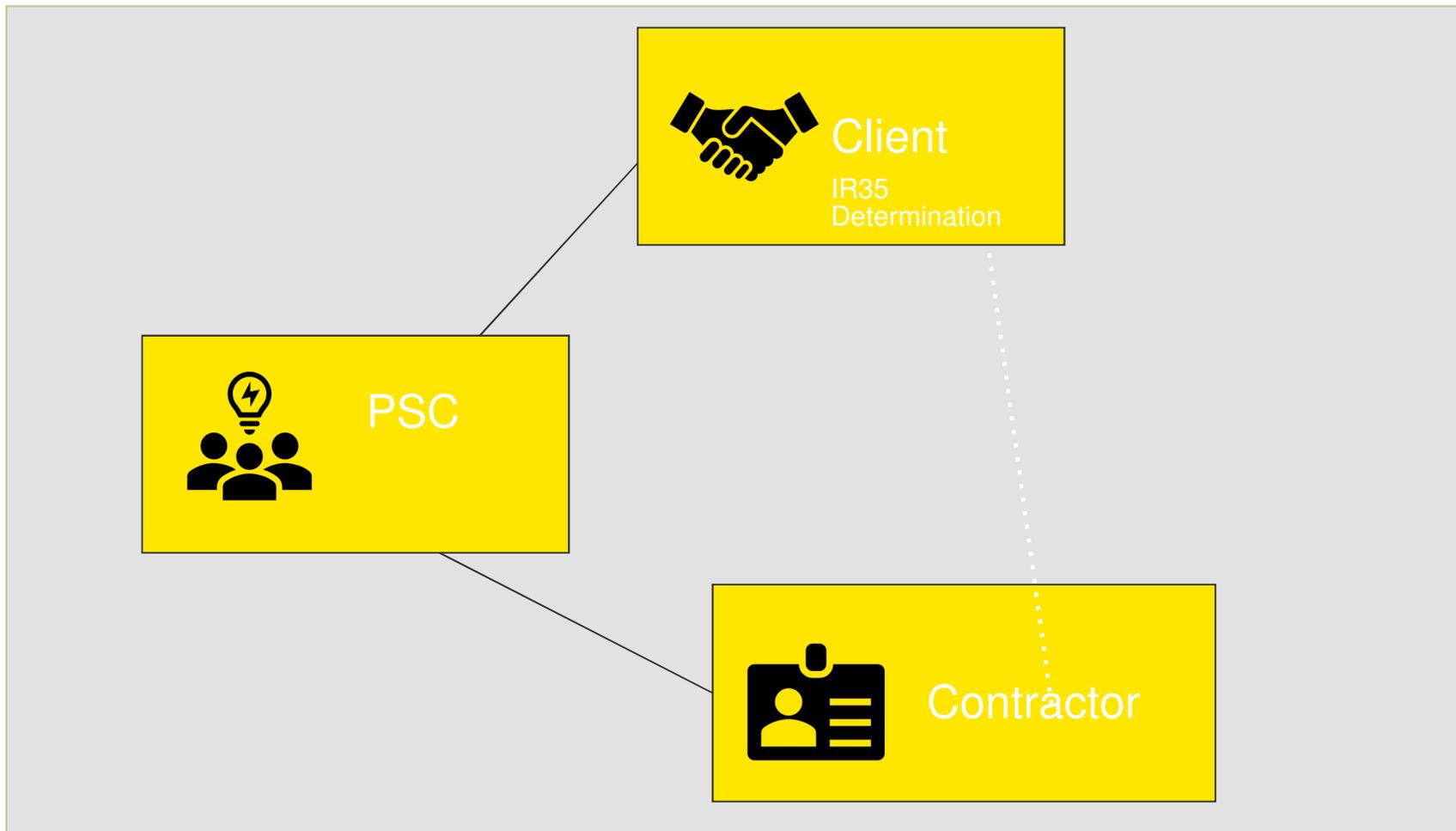
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Introduction and Timeline

What is this about? Current position



What is this about? Future position



Why? Money!

- *Evidence suggests that the current rules are not working effectively with only **10%** of personal service companies (PSCs) that should be applying the rules doing so. Furthermore, the cost of non-compliance in the private sector is increasing and is projected to reach **£1.3bn in 2023-24**. This is not a fair outcome and the government is clear that people who work in a similar way to employees should pay broadly the same amounts of employment taxes. It is fair to those who are already complying with the rules.*
- *Off-payroll working in the private sector – summary of responses*

Timeline

- 6 April 2017 – Off-payrolling introduced to public sector
- 18 May 2018 - Off-payroll working in the private sector consultation
- 29 October 2018 - extension to private sector announced
- 5 March 2019 - Further consultation until 28th May 2019
- 15 April 2019 - HMRC guidance – How to prepare
- 11 July 2019 - Draft legislation ~~and draft guidance~~
- Mid August 2019 – Initial Guidance
- Late 2019 Further guidance and CEST update
- 6 April 2020 - Off-payrolling introduced to private sector



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The Small Exemption

The Small Exemption

Companies that engage off-payroll workers are in scope of the reform if they do not qualify as small under the Companies Act 2006. To qualify as small, a company must meet two of the following qualifying conditions:

1. Annual Turnover not more than £10.2 million
2. Balance sheet total not more than £5.1 million
3. Number of employees not more than 50.

The Small Exemption

- 12. New section 60A sets out the conditions under which a company could qualify as small. The company is always “small” for its first financial year and continues to qualify as “small” until such a time that it does not.
- 13. A company does not qualify as “small” for a given tax year if the accounts due before the start of the tax year in question relate to a financial year in which the small companies regime does not apply.
- https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/816296/Rules_for_off-payroll_working_from_April_2020_-_Explanatory_note.pdf



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The Determination and the Appeals
process

The Status Determination Statement (SDS)

61NA Meaning of status determination statement

(1) For the purposes of section 61N “status determination statement” means a statement by the client that—

(a) states that the client has concluded that the condition in section 61M(1)(d) **is met** in the case of the engagement **and explains the reasons for that conclusion**, or

(b) states (albeit incorrectly) that the client has concluded that the condition in section 61M(1)(d) **is not met** in the case of the engagement and **explains the reasons for that conclusion**.

The Status Determination Statement (SDS)

Alternatively:

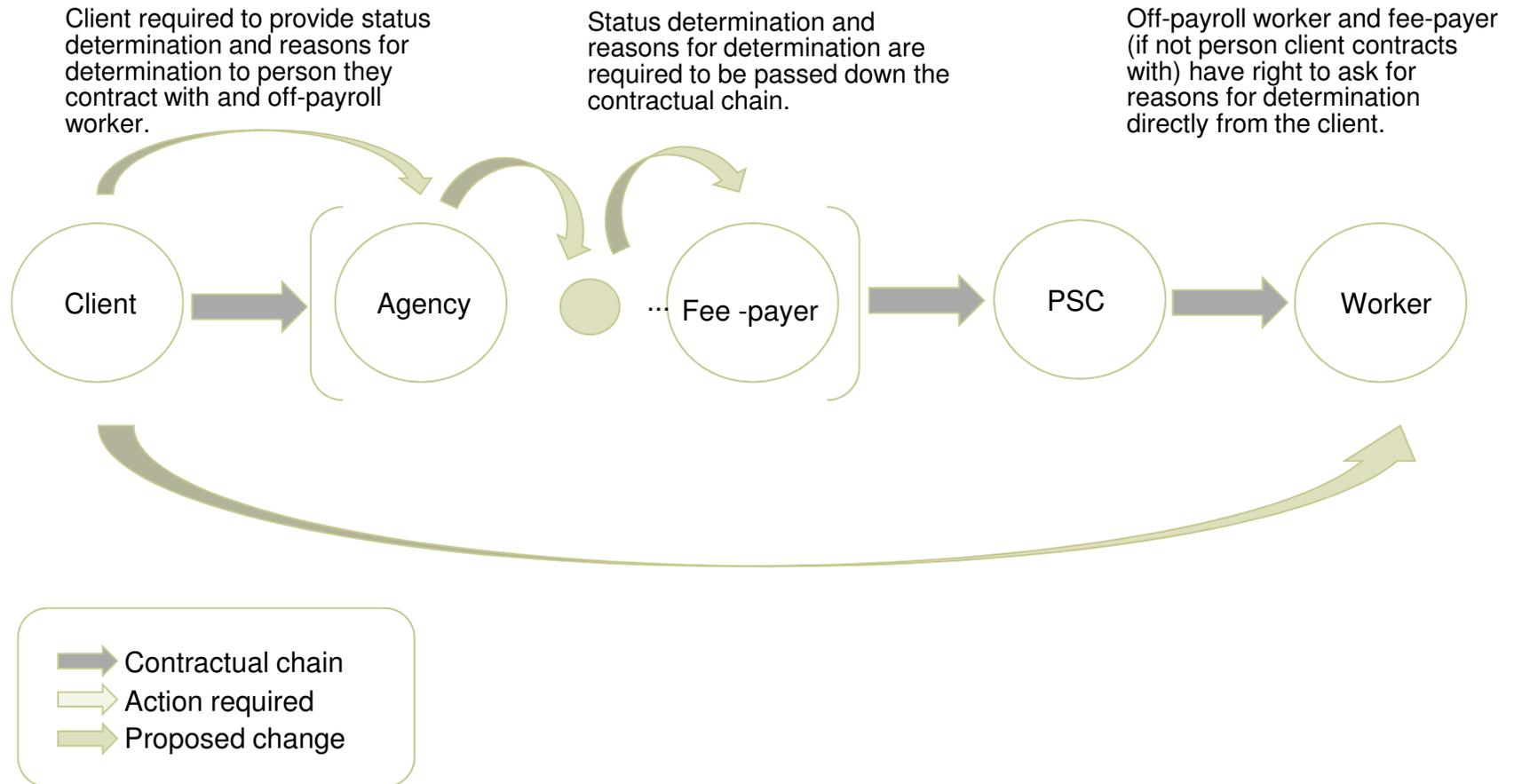
In - withholding applies and why withholding applies

Out - withholding does not apply and why withholding does not apply

Also need to withdraw before the start of a tax year if become small S61TA

The SDS Cascade

Illustration A: Determination and reasons for determination cascaded down the labour supply chain



The appeal process

61T Client-led status disagreement process

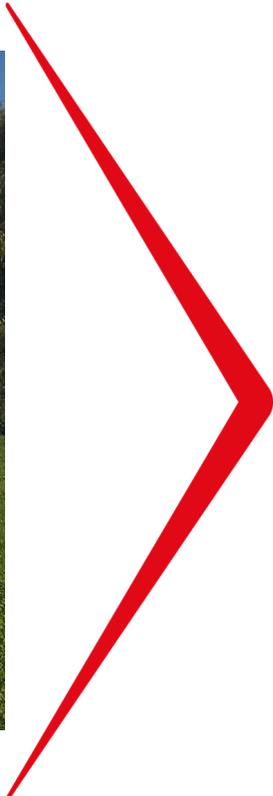
(1) This section applies if in the case of an engagement to which this Chapter applies the worker or the deemed employer makes representations to the client that the conclusion mentioned in a status determination statement is incorrect.

(2) **Before the end of the period of 45 days beginning with the day the representations are received** the client must either—

(a) inform the worker or (as the case may be) the deemed employer that it has considered the representations and has decided that the conclusion is correct, or

(b) give to the worker and the deemed employer a new status determination statement which contains a different conclusion and states that the previous status determination statement is withdrawn.

(3) If the client acts under paragraph (a) of subsection (2) the client must at the same time give the client's reasons for deciding that the conclusion is correct.

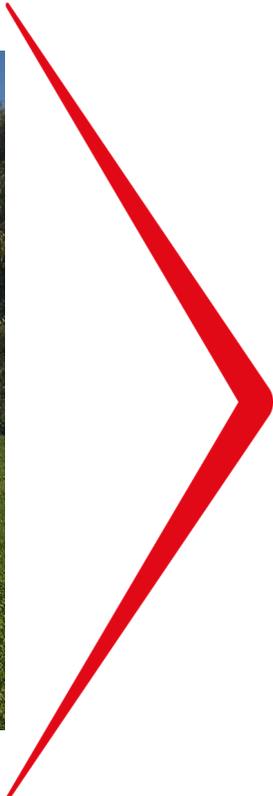


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What do you need to do?

HMRC – How to prepare

1. Look at your current workforce (including those engaged through agencies and other intermediaries) to identify those individuals who are supplying their services through PSCs.
2. Determine if the off-payroll rules apply for any contracts that will extend beyond April 2020. You can use HMRC's [Check Employment Status for Tax](#) service to do this.
3. Start talking to your contractors about whether the off-payroll rules apply to their role.
4. Put processes in place to determine if the off-payroll rules apply to future engagements. These might include who in your organisation should make a determination and how payments will be made to contractors within the off-payroll rules.

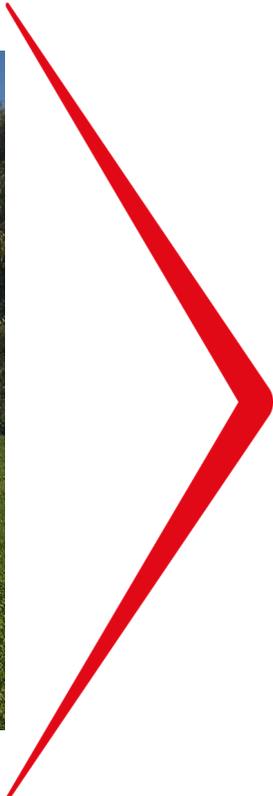


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Issues

Issues

- Although subject to withholding the contractor does not become a worker
- No student loan deductions
- What code number – BR – should it be 0T? HMRC will amend
- Invoices not paid from payroll software
- Does contractor need to be in HR system to be on payroll system
- Making determinations – CEST – 15% undecided
- Transfer of liability
- How do you deal with payments subject to withholding in PSC accounts
- Time!



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Any Questions

Future webinars and events

- Webinars 2019
 - 13 September : Compliance
 - 25 Sept : Entrepreneurs' relief – what's new?
 - 02 October : Managing risk – a guide for tax advisers
- Events 2019
 - 30 October: Hardman lecture

Further information regarding Tax Faculty events programme for 2019 can be found at icaew.com/taxfacevents

Thank you for attending



Please take the time to fill out our short survey

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