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How to calculate the IR35 Deemed Payment

This note explains

- how to work out the IR35 deemed payment, and
- how to pay HMRC the tax and NICs due on any IR35 deemed payment.

It also provides answers to some commonly asked questions.

There is an example at the end of the leaflet and a blank step by step guide, which you can use for your own calculation.

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How to calculate the IR35 deemed payment

Your company or partnership should operate PAYE and pay NICs in the usual way on any salary paid to you during the year, and report any taxable benefits (such as a company car) to us on form P11D. Your company (if it is a Personal Service Company) or partnership will also need to work out what the IR35 deemed payment is to find out if any additional tax and NICs will be due at the end of the tax year (or earlier in some circumstances, see [Common Questions](#)).

To work out the deemed payment

Step

Action

- Step 1
- Add** up all the amounts your company or partnership received for your services in the tax year under contracts to which the IR35 rules apply (see notes for more details about how to identify such contracts). These amounts may be cash payments or non-cash benefits received by your company or partnership.
- Non-cash benefits might include things like the provision of living accommodation, the use of an asset such as a car, gifts of assets and other benefits or facilities provided by the client. Further guidance about benefits can be found in booklet 480 "Expenses and Benefits. A tax guide".

Deduct 5 per cent from this total of salary and benefits. This is to allow for the costs involved in running your company or partnership. This deduction is given automatically, but only affects the calculation of the deemed payment. You cannot deduct it when you are working out the taxable profits of your company or partnership.

Step 2 Add any other payments and the value of any non-cash benefits you have received in the year directly from your client(s) (or from any other third party) unless PAYE tax has already been deducted from the payments before you get them, or the benefits have been reported to us on form P11D.

Deduct certain expenses met by your company or partnership in the year.

These are expenses for which you would have been able to have claimed tax relief personally

- if you had been an employee of your client(s), and
- you had met the expenses yourself out of your salary from your employment.

You may, however, be able to claim for

- Step 3
- travel and related meal and accommodation costs incurred in doing your job or in travelling to a temporary workplace you had to attend to perform your job (see [Common Questions](#)), and
 - other necessary expenses incurred solely in doing your job.

However, where the company or partnership employs a spouse to carry out administrative work for the company, it is unlikely that his or her wages will be allowed when working out the deemed payment. This is because an employee would not have been allowed to deduct those wages when working out his or her taxable earnings from employment.

Further guidance about what expenses may be claimed can be found in booklets 480 'Expenses and Benefits. A tax guide' and 490 'Employee Travel. A tax and NICs guide for employees' and in the notes on the Employment Pages of your tax return.

Deduct capital allowances for any equipment or machinery bought by your company or partnership to the extent that you would have been able to claim capital allowances personally

- if you had been an employee of your client(s), and
- had bought the equipment or machinery yourself.

Step 4 Capital allowances are an allowance for the depreciation of equipment or machinery that it is 'necessary' for you to provide to carry out your duties as an employee. Equipment or machinery is regarded as necessary if you could not do your job without it. The equipment and machinery must be things that every person doing your job would have to provide.

For example, your company or partnership may own computer equipment. However, if your client provides all of the equipment necessary to complete the job and your company or partnership only uses its own equipment out of choice then, in calculating the deemed payment, capital allowances will not be allowed for your company or partnership's equipment.

Step 5 **Deduct** any payments made by your company for your own personal benefit to an approved pension scheme.

Step 6 **Deduct** any employer's NICs that your company or partnership has already paid on salary paid to you in the year, and Class 1A NICs that will be payable when your form P11D is submitted. The NICs should be calculated on an annual basis, whether or not you are a director of your company (see CWG1 'Employer's Quick Guide to Pay As You Earn and National Insurance contributions', Card 12 Company Directors - National Insurance contributions).

Step 7 **Deduct** any salary or wages, any payments to reimburse allowable expenses and the value of any benefits in kind you have received from your company or partnership in the year, on which PAYE and NICs have already been paid or will be paid when you send in form P11D.

If the amount you are left with at this point is zero or a negative number there is no deemed payment.

However, if the amount you are left with is a positive number, you have to work out the amount which, together with the employer's NICs due on it, comes to the balance calculated after Step 7.

Step
8

The step by step guide at the end of this note shows you how to do this.

The result of this calculation is the IR35 deemed payment. If the deemed payment is greater than zero you will need to pay some additional tax and NICs.

At the end of this note you will find

- a full example of an calculation of an IR35 deemed payment;
- a step by step example; and
- a blank guide which you can copy and use for your own calculations.

How to account for the IR35 deemed payment

Employer forms

The deemed payment and any tax and NICs due on it should be entered in the normal way on the deductions working sheet. The 'Employers further guide to PAYE and National Insurance contributions' (CWG2) explains how to work out PAYE and NICs for various pay intervals.

Any tax and NICs due at the end of the tax year as a result of the calculation of the deemed payment should be sent to us by 19 April following the end of the tax year in which the deemed payment arises, along with any other tax and NICs due to be paid at that date.

The deemed payment and the tax and NICs due on it should be included in the totals of pay, tax and NICs in the end of year PAYE returns (forms P35 and P14) which you need to send to us by 19 May. The deemed payment should also be included on form P60, which your company needs to give to employees by 31 May.

The deemed payment and any tax and NICs due on it do not have to be identified separately from any other pay, tax and NICs included in your end of year forms. On the P35, the tax and the NICs can simply be included in the total tax and total NICs boxes, but there is a question to answer at box 6 of the checklist on the front of form P35 to tell us whether or not PAYE and NICs on a deemed payment are included in the total figures.

If you are unable to complete your deemed payment calculation by 19 April, we will accept a payment on account at that date of the tax and NICs due on the deemed payment. However, you will need to tell us in a note accompanying your form P35 by 19 May that the amount paid on 19 April and reflected in the end of year forms sent in by 19 May is provisional.

Interest will be due in the normal way on any of the tax or NICs due on the deemed payment that is not paid to us by 19 April, but, as long as you tell us by 19 May that your figures are provisional, no penalties will be charged, provided you send us supplementary forms P35 and P14 and pay any balance of tax and NICs due in respect of the deemed payment by the following 31 January. This concession on penalties will be reviewed annually and notice will be given if it is to be withdrawn.

Self Assessment returns

The deemed payment is treated as income from employment with your company or partnership and the tax is treated in exactly the same way as other PAYE tax.

The pay and tax details should therefore be recorded on your Self Assessment (SA) return on the supplementary employment page relating to your work through your company or partnership. However, as the pay and tax details on the P60 given to you by your company or partnership should include the deemed payment and the tax, there is no need to enter the figures separately on the employment page. You simply enter the total P60 pay and tax figures in the relevant boxes. If, however, only a provisional amount of tax has been paid by the time you get your P60, you may receive a revised one when the correct deemed payment is calculated and tax accounted for. In such a case, you should use the pay and tax figures on the revised P60.

Company or partnership accounts

Your company or partnership may deduct the deemed payment and any employer's NICs due on it in calculating its tax liability, whether or not the amount is actually paid in the form of salary. This deduction is only allowable in calculating the taxable profits for the accounting period in which the deemed payment is treated as paid. It does not affect your company's or partnership's tax computations for other purposes, which should only show the salary it has actually paid.

Common questions

Q. What happens to the IR35 deemed payment at the end of the tax year?

A. The IR35 deemed payment is simply a means of calculating any tax and NICs due. Your company does not have to pay anything to you, but it does have to pay the tax and NICs to us.

Q. What if the money is paid to me as a salary after the end of the tax year, rather than as dividends?

A. Any money paid as salary will be subject to the normal PAYE and NICs rules, whenever that salary is paid. Any salary paid in a later year will reduce the amount of the IR35 deemed payment in the tax year in which it is paid.

If your company pays you a salary after the end of a tax year in which you have paid tax and NICs on an IR35 deemed payment, and your salary in the later year is more than the amount your company receives from engagements covered by the legislation, after deductions, then you may pay more tax and NICs than you need. You should seek advice from your professional adviser if you think this situation applies to you.

Q. What happens if my company does not pay me any salary?

A. If your company is treated as making an IR35 deemed payment to you, but actually uses the money to pay dividends to you (or others), then the rules ensure that those dividends can be paid without further tax becoming due. The dividends can be paid during the same tax year as the IR35 deemed payment or in a subsequent year.

Your company should write and tell us about any dividends it has paid which it wants to be exempted under this rule. We will need the following information.

- The name and tax reference of the company making the claim.
- The name(s) and tax reference(s) of the person(s) who received the dividend(s).
- The amount of the dividend paid to each person and the total amount paid.
- The date (or dates) the dividend was paid.
- The amount of the IR35 deemed payment and the date on which it was treated as paid.

The person who has received the dividend does not have to do anything to claim any relief.

Q. What happens if my company or partnership fails to follow these rules?

A. If your company or partnership fails to follow these rules and does not pay the tax and NICs due; we will seek to collect any unpaid tax or NICs and any interest due. In addition, penalties may be sought in cases of negligent or fraudulent conduct. Details of the relevant procedures are set out in leaflet IR 109 'Employer compliance reviews and negotiations'.

Q. What key dates do I need to remember?

A. 5th April: Calculate your IR35 deemed payment.

19th April: Send us any tax and NICs due on the IR35 deemed payment, or a payment on account of any tax and NICs due.

19th May: Send your End of Year PAYE returns (forms P35 and P14) to us and include any IR35 deemed payment and tax and NICs due in it on these forms. If you have not yet finally calculated your IR35 deemed payment, then tell us in a covering letter that your figures are only provisional.

31st January If you only sent us provisional figures on 19 May, then send us corrected form P35 and P14 figures now, and pay any balance of tax and NICs due at the same time. If necessary, issue a corrected P60 to your employee at the same time. If you do not do this, penalties may apply.

Q. Where can I find more help?

A. There is further information on this website including answers to frequently asked questions and more detailed information in the Employment Status Manual, or by contacting the IR35 helpline on 0845 303

3535.

Q. What if I need advice about a particular contract?

A. See 'Supplying services through a limited company or partnership – a general guide to IR35'

Calculation of the IR35 deemed payment: example using the step by step guide

(Using 2007/08 rates, thresholds and allowances.)

Mrs Worker works through her own limited company, which does not meet the definition of a Managed Service Company. She provides services to Mrs Client under a contract which falls within the IR35 rules. Mrs Client pays £40,000 to Mrs Worker's limited company for the services provided by Mrs Worker.

Mrs Worker does no other work in the year in question. She pays herself a salary of £10,000 during the course of the year and operates PAYE and deducts NICs from that salary in the usual way. She also has a company car available for her private use, which is treated as a taxable benefit in kind valued at £2,000.

Mrs Worker's company meets the car's running costs. The amount of motor mileage relief which Mrs Worker could have claimed as a deduction from employment income if she had worked directly for Mrs Client and had paid the running costs herself is £3,000.

Mrs Worker's company also pays £2,000 into her personal pension scheme.

Step	Action	No	Amount
Step One	Enter in this box the amount of all payments and benefits received by your company or partnership in the year for contracts to which these rules apply.	1	£40,000
Step One	Enter in this box 5% of the amount in box	2	£2,000
Step Two	Enter in this box the amount of any payments and benefits received directly by you in the year for contracts to which the rules apply and which are not already taxable.	3	£0
Step Three	Enter in this box the amount of any expenses met by your company or partnership in the year which you could have claimed personally if the worker had been an employee of the client and had paid for them yourself.	4	£3,000
Step Four	Enter in this box the amount of any capital allowances for purchases made by your company or partnership which you could have claimed yourself if you had been employed by your client and had made the purchases yourself.	5	£0
Step Five	Enter in this box the amount of any contributions to an approved pension scheme made by your company or partnership for your personal benefit.	6	£2,000
Step Six	Enter in this box the amount of any employer's Class 1 and Class 1A NICs which your company or partnership paid in the year in respect of salary or non-cash benefits which it provided to you in the year.	7	£867
Step Seven	Enter in this box the amount of any salary you received from your company or partnership in the year which is already taxable as employment income (this does not include anything for which a deduction has already been given at Step Three)	8	£10,000
Step Seven	Enter in this box any benefits in kind or expenses you received from your company or partnership in the year which are already taxable as employment income (this does not include anything for which a deduction has already been given at Step Three).	8a	£2,000
Step Eight	Add together the figures in boxes 1 and 3 and enter the total in this box.	9	£40,000

Step Eight	Add together the figures in boxes 2, 4, 5, 6, 7, 8 and 8a and enter the total in this box. 10	£19,888	10	£19,867
Step Eight	Deduct the figures in box 10 from the figures in box 9 and enter the answer in this box.		11	£20,133
Step Eight	If the answer in box 11 is nil or a negative number there is no deemed payment.			
Step Eight	If the answer in box 11 is a positive number you will need to process this figure to get the deemed payment and the employer's Class 1 NICs on that deemed payment.			
Step Eight	Multiply the figure in box 11 by 100 and enter the answer in this box.		12	£2,013,300
Step Eight	Divide the figure in box 12 by (100+12.8) (see footnote 1) and enter the answer in this box (case a), unless the figure in box 8 is less than the secondary Class 1 NICs earnings threshold, in which case complete the steps below (case b). The final figure in box 13 is the deemed payment.		13	£17,848
Step Eight	The final figure in box 13 is the deemed payment.			
Step Eight	Case b: subtract the figure in box 8 from the Class 1 NICs earnings threshold and enter in this box.		13a	
Step Eight	Case b: subtract the figure in box 13a from the figure in box 11 and enter in this box.		13b	
Step Eight	Case b: multiply the figure in box 13b by 100 and enter the answer in this box.		13c	
Step Eight	Case b: divide the figure in box 13c by (100+12.8) (see footnote2) and enter the answer in this box.		13d	
	Case b: add the figure in box 13d to the figure in box 13a and enter the answer in box.			
	Deduct the figure in box 13 from the figure in box 11 and enter the amount you are left with in this box			
	This amount is the amount of employer's Class 1 NICs due on the deemed payment.			£2,285

Footnote 1: The employer's contribution rate can vary. Contracted-out or -in rates are different. The figure you add to 100 at this stage should be the contributions rate that is applicable to you. See HMRC National Insurance tables CA38 and the Employer's Annual Pack for further details.

Footnote 2: The employer's contribution rate can vary. Contracted out or in rates are different. The figure you add to 100 at this stage should be the contributions rate that is applicable to you. See HMRC National Insurance tables CA38 and the Employer's Annual Pack for further details.

Calculation of the IR35 deemed payment - step by step guide

Step	Action	No
Step One	Enter in this box the amount of all payments and benefits received by your company or partnership in the year for contracts to which these rules apply.	1
Step One	Enter in this box 5 per cent of the amount in box 2	2
Step Two	Enter in this box the amount of any payments and benefits received directly by you in the year for contracts to which the rules apply and which are not already taxable.	3
Step Three	Enter in this box the amount of any expenses met by your company or partnership in the year which you could have claimed personally if the worker had been an	4

employee of the client and had paid for them yourself.

Step Four	Enter in this box the amount of any capital allowances for purchases made by your company or partnership which you could have claimed yourself if you had been employed by your client and had made the purchases yourself.	5
Step Five	Enter in this box the amount of any contributions to an approved pension scheme made by your company or partnership for your personal benefit.	6
Step Six	Enter in this box the amount of any employer's Class 1 and Class 1A NICs which your company or partnership paid in the year in respect of salary or non-cash benefits which it provided to you in the year.	7
Step Seven	Enter in this box the amount of any salary you received from your company or partnership in the year which is already taxable as employment income (this does not include anything for which a deduction has already been given at Step Three)	8
	Enter in this box any benefits in kind or expenses you received from your company or partnership in the year which are already taxable as employment income (this does not include anything for which a deduction has already been given at Step Three).	8a
Step Eight	Add together the figures in boxes 1 and 3 and enter the total in this box.	9
	Add together the figures in boxes 2, 4, 5, 6, 7, 8 and 8a and enter the total in this box.	10
	Deduct the figures in box 10 from the figures in box 9 and enter the answer in this box.	11
	If the answer in box 11 is nil or a negative number there is no deemed payment.	
	If the answer in box 11 is a positive number you will need to process this figure to get the deemed payment and the employer's Class 1 NICs on that deemed payment.	
	Multiply the figure in box 11 by 100 and enter the answer in this box.	12
	Divide the figure in box 12 by (100+12.8) (see footnote 1) and enter the answer in this box (case a), unless the figure in box 8 is less than the secondary Class 1 NICs earnings threshold, in which case complete the steps below (case b). The final figure in box 13 is the deemed payment.	13
	The final figure in box 13 is the deemed payment.	
	Case b: subtract the figure in box 8 from the Class 1 NICs earnings threshold and enter in this box.	13a
	Case b: subtract the figure in box 13a from the figure in box 11 and enter in this box.	13b
	Case b: multiply the figure in box 13b by 100 and enter the answer in this box.	13c
	Case b: divide the figure in box 13c by (100+12.8) (see footnote2) and enter the answer in this box.	13d
	Case b: add the figure in box 13d to the figure in box 13a and enter the answer in box.	
	Deduct the figure in box 13 from the figure in box 11 and enter the amount you are left with in this box.	

This amount is the amount of employer's Class 1 NICs due on the deemed payment.

Footnote 1: The employer's contribution rate can vary. Contracted-out or -in rates are different. The figure you add to 100 at this stage should be the contributions rate that is applicable to you. See HMRC Insurance tables CA38 and the Employer's Annual Pack for further details.

Footnote 2: The employer's contribution rate can vary. Contracted out or in rates are different. The figure you add to 100 at this stage should be the contributions rate that is applicable to you. See HMRC National Insurance tables CA38 and the Employer's Annual Pack for further details.

IR35 deemed payment calculator

An IR35 deemed payment calculator is available to assist you in calculating the amount of the deemed payment. If you require the calculator please go to the links at the bottom of the [IR35 home page](#).

These notes are for guidance only and reflect the tax and NICs position at the time of writing.

They do not affect any right of appeal.