

Off Payroll Working Queries for Software Developers.

1. Overview

- The off-payroll working rules (often known as IR35) are designed to make sure that people working like employees, but through their own limited company, pay broadly the same tax and National Insurance contributions (NICs) as those who are employed directly.
- In 2017, the government changed the off-payroll working rules for the public sector, shifting responsibility for applying the rules from the worker's PSC to the organisation they work for. This is how employment status for tax is decided for the vast majority of people, who do not work through their own company.
- At Budget 2018, the government announced that this change is due to be introduced to all large and medium sized organisations from 6 April 2020.
- From this date, large and medium-sized organisations will be responsible for assessing the employment status of the contractors they engage to work for them. If the off-payroll rules apply, the organisation that pays the individual's PSC will be responsible for deducting and paying the associated employment taxes and NICs to HMRC.
- Organisations will report when a worker has been determined as an off-payroll worker by completing the 'Off Payroll Worker subject to 2020 rules' RTI flag, data item 208 on the RTI FPS

2. Further information

- Further guidance can be found in the Employment Status Manual;
<https://www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm10000>
- Further guidance can be found in the CWG 2: further guide to PAYE and National Insurance contributions (See CWG 2 Guidance attached);
- Following the recent OPW review announcement, the OPW rules will now apply only to payments made for services provided on or after 6 April 2020. Further guidance can be found here:
<https://www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm10001>
<https://www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm10001a>

3. Software Developer Queries

HMRC has set out answers to the most frequently asked questions from developers relating to the implementation of the off-payroll working rules;

Question	Response
Is there any difference in the way new off- payroll workers should be set up on payroll?	Off payroll workers should be added to the payroll like any other new starter. They should be issued with a starter checklist so that key employment information can be forwarded to the deemed employer. There will be an RTI flag for deemed employees and this should be set for each payroll run. Ref ESM10019
Is there a specific tax code that an off-payroll worker will be assigned?	The declaration the worker chooses on the starter checklist will determine their tax code. Usually this will be declaration C as the worker will already have a primary employment with their intermediary. This would put them on tax code BR. OT week 1 / month 1 would apply if the worker does not return the starter checklist. HMRC can then issue another tax code if it is required. Devolved powers that affect tax codes apply as normal, for example Scottish rates of income tax. Ref ESM10019
Is there a specific National Insurance (NI) table letter that applies to off-payroll workers?	The same rules that apply to regular employees regarding NI category apply equally to off- payroll working employees. The off-payroll working rules do not change how a worker's NI category should be determined. Current guidance is here https://www.gov.uk/national-insurance-rates-letters/category-letters
How are Employer National Insurance Contributions calculated for off-payroll workers?	The ER NICs should be calculated based upon the full deemed direct earnings payment. See ESM10028. Normal NICs rates and thresholds apply.
How are Employee National Insurance Contributions calculated for off-payroll workers?	The EE NICs should be calculated based upon the full deemed direct earnings payment. See ESM10028. Normal NICs rates and thresholds apply.
Can a worker subject to off-payroll working legislation still make Statutory Payment claims?	To be eligible to claim statutory payments the worker must be paid a salary through their intermediary as set out in ESM10030. The worker's intermediary will need to report it on an FPS using box 58A if the worker wishes to claim statutory payments. (Note, the worker's intermediary does not need to set the RTI flag. The deemed employer will have already set the RTI flag on its payroll).
Can a worker subject to off-payroll working legislation still have Student Loan/Post Graduate Loan Deductions made on their behalf?	Student or post graduate loan deductions should not be made by the deemed employer when a worker is determined as an Off-Payroll Worker. Workers will make repayments through Self-assessment.
Can a worker subject to off-payroll working legislation still be subject to Apprenticeship Levy?	The deemed employer will be liable for Apprenticeship Levy. Ref ESM10002.
Is there a requirement for a deemed employer to issue a pay slip to a worker subject to off-payroll working legislation?	There is no requirement for a payslip to be issued. In practice under the 2017 public sector reform payslips or remittance notices are provided by the deemed employer containing payment and deduction information.
Is there any change in the way VAT should be reported for workers subject to off-payroll working legislation?	There's no change to how VAT is reported. There is no requirement for it to go through the payroll. Further examples can be found at ESM10029.

If an off-payroll working flag is set in error, what is the suggested course of action?	Corrections should be made through normal payroll correction procedures and an updated FPS sent to HMRC, so the correct information is held. Once corrections have been made the necessary amounts can be reimbursed to the worker.
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