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CYMRU
NHS
WALES

Bwrdd Iechyd Prifysgol
Hywel Dda
University Health Board

Ein cyf/Our ref: IR 35
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Dyddiad/Date: 22/03/2017

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Tel: 01554 756567

By email:

Pathology Group Ltd

Dear Sir/ Madam

Re: IR35 Update

I refer to the IR35 changes which will come in to effect on April 6th 2017.

As you are aware, this measure will impact on public-sector organisations and agencies supplying workers to the public sector. The purpose of this change is to transfer the liability to consider whether the intermediaries' legislation applies from personal services companies to public sector engagers and agencies who pay workers engaged in the public sector. The measure also makes the public sector organisation or agency responsible for deducting and paying associated employment taxes and National Insurance contributions where appropriate to do so.

As part of these changes, public sector organisations are required to provide information as to whether an individual supplied via an agency on a temporary basis is deemed to be "inside" or "outside" of IR35 regulation. We are therefore writing to you to inform you of our decision relating to **all** healthcare workers supplied to the NHS on a temporary basis or where introduced to the NHS on a short-term engagement.

The term healthcare worker includes health care assistants, doctors, dentists, nurses, midwives and any other clinical staff delivering healthcare, including allied health professionals or individuals undertaking health science services roles.

In addition to this, administration and clerical staff, Ancillary and Maintenance staff and Management Consultants are also included.

Swyddfeydd Corfforaethol, Adeilad Ystwyth,
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Cadeirydd / Chair
Mrs Bernardine Rees OBE

Prif Weithredwr/Chief Executive
Mr Steve Moore

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Hywel Dda University Health Board is the operational name of Hywel Dda University Local Health Board

Mae Bwrdd Iechyd Prifysgol Hywel Dda yn amgylchedd di-fwg Hywel Dda University Health Board operates a smoke free environment

Based on the final guidance from HMRC, the following instructions shall apply, unless agreed otherwise in writing by us:

1. Introduction of workers who are engaged by the NHS or related third party on a short-term engagement

If you **introduce** a worker to the Health Board for a short-term engagement:

New bookings post April 5th 2017

for any new booking made after April 5th 2017, workers **will not** be engaged outside of IR35 and deductions will be made for associated employment taxes and National Insurance contributions either via a payroll arrangement or umbrella company arrangement.

As a result of this you will need to inform workers of this change and you should note that this change will affect any new bookings made after April 5th 2017.

Existing bookings that extend beyond April 5th 2017 or conclude before April 5th 2017

we may contact the worker directly or our Managed Service Provider, Medacs Healthcare, will liaise with yourselves to inform them (the workers) of the date at which deductions will need to start to be made for employment taxes and National Insurance contributions either via PAYE or via an umbrella company arrangement.

2. Supply of temporary workers to the NHS

When you as an agency **supply a healthcare worker on a temporary basis** to the NHS it is expected that you shall deduct and pay associated employment taxes and National Insurance contributions. Changes shall be applied as follows:

New bookings post April 5th 2017

For any bookings made after April 5th it is expected that engagements will fall within off-payroll rules and that employment taxes and National Insurance contributions shall be deducted. This means that you will need to inform any workers on a new assignment that starts after April 5th that it is expected that work will fall within IR35 rules and that employment taxes and National Insurance contributions will need to be deducted.

Existing bookings that extend beyond April 5th 2017 or conclude before April 5th 2017

The Health Board expects that any worker currently supplied via a limited company arrangement will operate within IR35 rules for the deduction of relevant employment tax and National Insurance contributions, taking into account that the last date at which a Health Board will pay an invoice where supply is outside of IR35 as being 5th April. You should note if any work is completed before 6th April but payment is made on or after April 6th it will fall within the new legislation.

The new legislation is not introducing a new tax, we would like to be clear that this is a personal tax and therefore the application of the new IR35 rules will not constitute a need to increase or escalate rates.

3. Payments

Payments made on or after 6th April 2017 will have the appropriate deductions made regardless of when the shift was worked.

4. Ways of working

At present we are waiting for HMRC to issue final rules and this may include the workers tax code being submitted at the time of confirmation; this has not yet been confirmed as a requirement by HMRC however we wanted to raise this possibility with you at this point.

5. Further information

Please find below a link to further information about changes to IR35 and should you need to do so, please take any necessary additional advice regarding the implementation of the legislation.

<https://www.gov.uk/government/publications/off-payroll-working-in-the-public-sector-reform-of-the-intermediaries-legislation/off-payroll-working-in-the-public-sector-reform-of-the-intermediaries-legislation#further-advice>

6. Next Steps

We would be grateful if you could communicate with your workers regarding these changes, it is imperative that your workers are aware of the changes and the potential impact of any changes for them. We also that you submit timesheets in a timely fashion, as soon as possible, rather than bulk submit at cut off date.

I would be grateful if you could acknowledge receipt of this letter by Friday 31st March 2017 to confirm that you will the action as specified.

I would like thank you for your co-operation in this matter. Should you have any queries, please contact me.

Yours Sincerely

Bethan Howe
Senior Medical Workforce Manager