**Using CEST employment status determinations**

Under the off-payroll working rules as extended from 6 April 2020, medium and large public sector organisations that engage workers who provide their services through an intermediary, such as a personal service company, must determine the status of the worker as if the services were provided directly rather than through an intermediary. If the worker is within the off-payroll working rules, the end client (or fee payer where different) must deduct tax and National Insurance from payments made to the worker’s intermediary, and also pay employer’s National Insurance.

Where the end client is a small private sector organisation, it is the worker’s intermediary that must undertake the status determination in order to ascertain whether IR35 applies.

**HMRC’s CEST tool**

HMRC’s Check Employment Status for Tax (CEST) tool can be used to find out whether a worker is employed or self-employed or whether the off-payroll working rules apply. The CEST tool was updated and enhanced at the end of 2019 in preparation for the extension of the off-payroll working rules.

The tool asks a series of questions about the contractual relationship between the worker and the engager. The following information is required:

* details of the contract
* the responsibilities of the worker
* who decides what work needs doing and when and where
* how the worker is paid
* whether the engagement includes any corporate benefits or reimbursement of expenses

In order to reach a decision on the worker’s status, the user works through the questions selecting the answer most appropriate to their circumstances from those available. The answers given are used to provide a result.

The tool can be used anonymously – there is no requirement to provide personal details.

It is not possible to save information entered into CEST so that the user can return to it later – it must be completed in one session.

**Possible outcomes**

The CEST tool will provide a result determined from the answers provided. These can be reviewed before obtaining the result.

The possible outcomes are:

* off-payroll working rules (IR35) do not apply
* off-payroll working rules (IR35) apply
* unable to make a determination (for whether the off-payroll working rules apply)
* self-employed for tax purposes for this work
* employed for tax purposes for this work
* unable to make a determination (for employed or self-employed for tax purposes).

The tool will provide a reason as to why CEST reached the determination it reached.

**Reliance on decision**

HMRC have confirmed that they ‘will stand by the result produced by the service provided that the information is accurate, and is used in accordance with [their] guidance’.

A copy of the output should be retained.

However, HMRC warn that they will not stand by results achieved using contrived arrangements.

**Use by end clients**

Medium and large private sector organisations and public sector bodies that use workers providing their services through an intermediary can use CEST to fulfil their obligation to make a determination under the off-payroll working rules.

They should print off the determination and give a copy of it with the reasons for it to the worker and other parties in the chain. They should also keep a copy.

**Use by workers**

Workers supplying their services to small end clients can use the CEST tool to check whether they need to apply the IR35 rules. Where they receive a determination under the off-payroll working rules, they can use CEST to check that they agree with it, and to challenge it if they do not.