

# How the British Government Killed Enterprise



## Introduction

Luckily, Bill Gates was in the US when he was asked by MITS (Micro Instrumentation and Telemetry Systems) to write a BASIC program interpreter for the Altair 8800. If this had happened in the UK today, Microsoft would never have existed! If it were today in the UK, MITS would have its hands tied and would have to use a contract agency to advertise the role, and, as a huge company, would deem the role to be inside IR35. IR35 is UK government legislation that ensures anyone hired temporarily on a contract basis pays tax and national insurance as if they were employed, but without receiving any of the other benefits of employment. So, tiny companies that set up to get work on a temporary or contract basis, with the hope of growing the company and the number of employees, would fall under this legislation. At the time, Bill Gates was part of a partnership called Micro-Soft, consisting of two people; if he had been in the UK, he would have been deemed subject to IR35 legislation and would have had to be temporarily employed by an umbrella company that would have sat between Micro-Soft and MITS. Determining whether a worker is outside IR35 is the responsibility of the hiring client company, in this case, MITS. Unfortunately, many large companies today only accept IT contractors on an inside IR35 basis, as otherwise they would need to assess each contractor's IR35 status before offering them the role.

## Original Government Push for Enterprise!

Around 1990, Margaret Thatcher's government introduced a plan to reduce the number of people out of work. This scheme involved providing them with a training course to help them start their own business, and then moving them off the out-of-work register. The other benefit was that everyone who joined the scheme would receive a £1,000 overdraft limit from a local bank. People would enrol in the scheme and attend a half-day training course, and were told the best thing to do was to start a company offering IT-type or other services, with the intention of building it up, just like the many companies in Silicon Valley, California. The promise of the £1,000 overdraft was dashed when attendees visited their local banks and were told, "Why would we give an overdraft to someone who is out of work?" was always the bank's response. Thank you, Mrs Thatcher!

Hopes were further dashed when, in the year 2000, Tony Blair's government introduced an updated IR35 legislation, the effect of which was that contract agents were introduced as a go-between the clients and the contractors. This caused many start-up companies to become contractors, as companies that had been taxed and national insurance contributions could be deducted at source. Even working through your own limited company was subject to stringent checks when offering work directly switched to using contract agents to recruit temporary staff. Later on, it got worse as umbrella companies were forced on contractors, so all contractors. There were many schemes set up to avoid this legislation and the tax burden, and some of them worked, but today they are illegal, and contractors who used these schemes have been charged backdated tax and interest, resulting in more than ten suicides. There have been many test cases regarding this legislation, including high-profile ones concerning BBC presenters who operate through their own limited companies, with some awarded in favour of the presenter and others in favour of HMRC.

## Why IR35 Was Introduced

Why did the government introduce IR35? Well, the original intention was not to stop innovation and enterprise, nor to stop companies from growing by forcing them to abandon everything and make everyone become employed by an umbrella company. The main reason is that the government needs to raise more tax revenue, as it has failed to get the likes of Amazon to pay their fair share and has also squandered money on various projects. Amazon, Google and Starbucks are not easy targets, so a better approach is to attack the soft targets, like electricians, builders and IT contractors who do not have the money to fight the draconian measures introduced. Some of the reasons why the government needs more tax revenues are given below, besides paying for an over-staffed Civil Service and giving pay rises to public sector workers and doctors:

- The government has failed to get millions of tax revenues from the large corporations, as these companies have offshore subsidiaries and many accountants and solicitors, so they can legally avoid tax. This amounts to around £2 billion of lost revenue per year for HMRC.
- The previous governments have used public-private partnerships to get hospitals, schools and other infrastructure built. The UK government will have to pay this money back and the Financial Times calculated that this amounts to over £20 billion.
- The government spend £15.3 billion in foreign aid, and the money is being sent to too many wealthy countries, with not enough going to the poorest nations. However, sending money to other countries so that they can build hospitals, infrastructure and provide condoms for Pakistani men seems ridiculous when we are short of cash in the UK.
- The government totally overspends on transport infrastructure projects, like HS2 and Crossrail, and needs to get more tax revenues to pay for their bad management.

- The government has lost £billions on defence projects where the projects have been started and then abandoned for several reasons.

Due to successive government mismanagement, the police force is depleted, there are not enough hospitals, and social care is virtually non-existent. We have massive taxes on petrol, cars, alcoholic drinks, flying and dying, but this is not enough, so the little man in the street is being attacked, which means that starting a company and building it up is no longer possible if you provide a service.

As we will see below, although the government virtually forced many unemployed people to start their own companies in 1990, they are now killing such enterprises and taxing them to death!

## IR35 Legislation Today

IR35, officially known as the off-payroll working rules, ensures individuals who would be employees in all but name do not avoid paying the income tax and National Insurance Contributions (NICs) that employees would pay. When a contractor's engagement falls within IR35, their income is taxed as employment income, even though they are technically self-employed through their own company.

Contractors whose arrangements are outside IR35 retain most of the tax benefits of working through their own company (such as an efficient salary/dividend mix). Determining whether a contract is inside or outside IR35 depends on the contract terms and actual working practices, such as control, substitution, and mutuality of obligation.

For private sector clients that are medium or large, the client must assess IR35 status and issue a Status Determination Statement (SDS). Smaller client companies may not have this responsibility, letting you (the contractor/PSC) decide your own status. If your limited company is found to be inside IR35, you pay tax as though you were employed, with lower take-home pay. The other issue is that when your contract is deemed inside IR35, you must be employed by an umbrella company, which is a third-party business that employs you and pays your wages under PAYE. Under this scheme, you are not allowed to pay business expenses or claim any other benefits. You submit timesheets to the umbrella company, which invoices the agency or end client and then pays you after deducting income tax, NICs, and their fees. In all cases, contractors who have to go via an umbrella company are losing a significant percentage compared to the amount the end client is paying the contract agency.

Unlike a PSC, if you work through an umbrella company, IR35 does not apply because you are already treated as an employee for tax purposes. Your income tax and NICs are handled through PAYE, just like a permanent employee, and the umbrella company takes care of all deductions on your behalf. This means you don't need to worry about determining IR35 status yourself.

## Determining IR35 Status

Determining the IR35 status that applies to a contractor with a limited company is complex, and three main areas need to be examined by the hiring company (MITS in the above example). These three areas are, as follows (simplified version):

- 1) The degree of supervision, direction and control that the client has over what, how, when and where the work is carried out on a day-to-day basis.
- 2) Whether the contractor is required to carry out the work himself/herself, or whether the work can be carried out by someone else in the contractor's limited company.
- 3) If the client offers additional work to the contractor, whether the contractor is obliged to carry out the work.

It is very easy to see how difficult it is to be outside IR35: if the client requires the contractor to work on their premises and also provides a company PC to do so, then this is game over! That is why most new contracts are now inside IR35, meaning the client company does not need to conduct IR35 tests on its contractors. Building an IT company from scratch today in the UK is no longer possible.

## Conclusion

Unless you have no other option, try to start your own business and avoid working as a contractor under the IR35 regime, where you will lose a large percentage of your income. Get full-time employment, train to become an accountant or solicitor, start your own company, import products from China, work as a plumber or electrician, write books, or become a YouTuber or influencer. If you do work for yourself, make sure you save for a private pension to avoid trying to live off a £200 a week state pension when you retire. It is not easy today to even get a well-paying full-time position, so if you need to go this route, become a civil servant so you can retire early and get a reasonable pension as well.