

A new era for contractor taxation?

The proposed [managed service legislation](#) could herald the first step towards a much needed clarification of tax rules for the self-employed.

That is the view of Barry Roback, chief executive of the chartered accountant firm [JSA](#) which specialises in contractor affairs, an accredited supplier to the [Professional Contractors Group](#) under the [Qualified Accountant scheme](#).

Contractors Must Consider the Implications Carefully

[However Roback warns that it is important for both contractors and agencies to consider the implications of the legislation carefully before rushing into any decisions.](#)

["Although there has been considerable confusion about the underlying motives of the proposed legislation, it would seem that the Revenue is making a genuine attempt to prioritise promoters of managed service schemes that were designed to bend the tax rules, rather than to land a blow to the solar plexus of the genuinely self-employed."](#)

[But what kind of promoters? Roback admits that the exclusion of accountants from certain parts of the new regime has led to some lack of clarity about what types of service providers are included within the proposed legislation.](#)

No Legal Definition

["It is certainly true that there have been a number of managed service providers who have tried to call themselves 'accountants' when they clearly have no recognised accountancy qualifications," Roback points out. "But the fact remains that there has never been a legal definition of what constitutes an accountant. With no real barriers to entry, anyone who knows how to count can set themselves up as an accountant."](#)

[However, Roback argues that while some accountants may be caught by the new legislation, he does not believe that HMRC is trying to clip the wings of the profession. But he is concerned that there could be misunderstandings about where the line should be drawn between firms of accountants providing general tax advice and services to contractors, and those that are considered to be promoters of managed services, thus coming within the remit of the new legislation.](#)

“ It is not clear how much the The Revenue is not trying to deliver a blow to the solar plexus of genuine contractors ”

Barry Roback-JSA

No Direct Influence

[Roback believes that the answer lies in the level of direct influence an accountant has over his clients' affairs. "JSA, for example, has no access to our clients' bank accounts, has no influence over the distribution of their dividends, takes no position within our client companies and we do not promote the use of limited companies as a tax efficient scheme \(although obviously set them up on request\). We are not directly involved in the day to day management of our contractors' affairs as a managed service provider might be."](#)

[Nonetheless, he points out that many of his firm's clients do expect professional advice on tax planning and management and, like any other firm of professional accountants, JSA considers its duty to offer this advice when requested. Adds Roback: "As we understand it, the Revenue does not have an issue with this position and the services that we and other accountants provide should not be affected by the new tax rules."](#)

[Roback does advise both agencies and contractors against automatically seeking shelter under an 'umbrella' company as a 'fail safe' option. "Some contractors may decide that the 'umbrella' solution is the easiest option, even if it means they will pay more tax. Agencies, very understandably, are anxious to safeguard their businesses from the provision in the new legislation that will make third parties \(which includes recruitment agencies\), potentially liable for the unpaid PAYE and NICs debts of managed service companies and contractors who work for them. However, agencies can be reassured that so long as their contractors are working under a correct tax regime, they are protected from picking up other people's debts."](#)

Umbrellas

["This position is not one we have taken out of self-interest," adds Roback, "because JSA also offers an umbrella solution in addition to its accountancy service. However, where appropriate, JSA has advised contractors to utilise a limited company where they are clearly in business on their own account and IR35-exempt, because as Chartered Accountants, we believe it is our job to ensure that our clients pay no more tax than is legally necessary."](#)

He concludes that this new legislation opens the door for contractors, agencies, accountants and the HMRC to work more harmoniously in the future, providing that all parties act calmly and develop

“ This is an opportunity for ”

a suitable level of mutual trust. "The last few years have been something of a helter skelter for the self-employed. Let's seize this opportunity to move into calmer waters."

**contractors and agencies
and accountants and the
HMRC to work together** ”

Barry Roback-JSA



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