

## Providers for contractor companies may face audits, but not accreditation

HMRC has rejected proposals to accredit service providers as not being [managed service companies](#) under the terms of the current legislation. But HMRC is mooting schemes to audit service providers to contractor companies to ensure that they are not managed service companies. But there is no commitment to such a scheme, and consideration is just starting, according to the Hove-based legal consultancy [Lawspeed](#) which specialises in contractor affairs.

### Accountants Seek Scheme

There has been pressure from the service provider community for the Revenue to produce such a scheme because without it almost any service provider, no matter what their actual status is, may be suspect as being a managed service company. The unclear language used in the drafting of the law which covers MSC's is to blame.

Agencies which recommend service providers risk, under the legislation, being made liable for contractor tax debt, and so are no longer providing guidance to contractors on which accounting or law firms they should use.

As Barry Roback, chief executive of the Watford-based accounting firm [JSA](#) points out: "Contractors suffer from the lack of clear guidance from their agencies and as a result many more are being lured into non-compliant, or questionable offshore schemes."

### Accreditation Rejected But...

Nonetheless, as Lawspeed CEO Adrian Marlowe states categorically: "An accreditation scheme has been considered and wholly rejected by HMRC."

### Audit Is Considered

What HMRC is actually considering is some sort of audit scheme, although such consideration is only at the stage of initial discussion, according to Lawspeed. HMRC reportedly has insufficient resources for such a scheme.

More recently it has been suggested that a separate scheme, an audit scheme, is to be announced in the near future and is close to fruition. To some extent this may have been fuelled by an announcement on the HMRC website that a scheme is being considered. However the words used by HMRC say nothing more than that. It is more than a leap and a bound to read into it that any such scheme is imminent.

This scheme would involve the undertaking of audits of scheme providers, with the audits apparently to be undertaken by the big four accountancy firms. The suggested benefits would include enabling employment businesses to identify whether a personal service company operating with assistance from a scheme provider would be a managed service company.

### HMRC Must Approve

Says Marlowe: "Such a scheme would be dangerous unless it is fully accredited by HMRC. This is because to exclude any risk to an employment business using the audited service provider, HMRC would have to accept that the positively audited organisation is accepted as excluded from the managed service company legislation for the audit-approved period. Otherwise the risk of being caught by debt transfer as a result using such a provider remains roughly the same as if there were no audit scheme."

Another audit scheme, which would involve the scrutiny of business processes at service companies, has been bruited by HMRC. Marlowe again points out that any such audit process would be worthless without HMRC approval.

Marlowe continues: "No framework for discussion with the accountancy profession has yet been agreed. Nor has the format for any audit been settled, and the ramifications have not yet even been fully considered by Government. Even if a scheme is put forward by HMRC in due course, acceptance by the accountancy profession, which would be key to its operation of the scheme, is by no means certain."

Lawspeed is running a seminar on this subject which will include a representative of the Revenue, and of the Department for Business Enterprise and Regulatory Reform (formerly the Small Business Ministry) as well as representatives of several important contractor and recruitment organisations. Please see the [Lawspeed Web site](#) for more information.

**Published: Monday, September 24, 2007**

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