

Contractors should avoid taint of MSC brush, says lawspeed

With the final draft of the [managed service company legislation](#) now signed into law, contractors need to be aware of how the new rules affect them.

In fact, the effect is considerable, because if the Revenue finds that your [limited company](#) is an MSC, you will be obliged to pay National Insurance Contributions and PAYE income tax as though you were an employee. And you'll have to pay it for as long ago as six years. And if you default, your advisers will have to pay your tax.

What To Watch For

Adrian Marlowe, managing director of the Hove-based legal consultancy [Lawspeed](#) which specialises in contractor affairs, points out several areas where contractors should exercise extreme caution:

- o Don't start your company with a standardised tax advice package from any sort of advisor, be they accountants or lawyers or whatever.
- o Any advertisements that "guarantee you will be outside [IR35](#)" should be avoided.
- o Do not expect or seek advice from an agent or recruiter on tax or status.
- o Ask your advisers to provide a written statement that they do not fall foul of the MSC legislation.
- o Learn how to run your business yourself.

"Promoting and Facilitating and Encouraging"

Marlowe points out that under the final terms of the law, it is not entirely clear who may be considered as an "associate" or a "Managed Service Company Provider" of an MSC because of various exceptions. However, anyone who "promotes or facilitates" your working through a limited company for tax reasons could get you tainted with the same brush.

The Revenue is particularly interested in advisers of any kind who offer packaged services to run a company, and HMRC is looking especially at Web sites that make such offers.

"It may be that there is some confusion resulting from this legislation with the result that some perfectly legitimate concerns fall within the MSC definitions" Marlowe explains. He goes on to say "if a centralised service provider looks as if it is offering a standardised tax avoidance scheme, then it probably will be caught"

But there are still companies who advertise that they can give you everything you need to operate as a contractor including being outside IR35. Such companies run a high risk of attracting the Revenue's attention, and should be avoided.

Advice is Dangerous

But not just such companies themselves. Anyone who gives you advice about your tax or your status could put you at risk. You will find that recruiters and agents, who once were eager to help contractors get started, will now be very reluctant to make any suggestions on these subjects.

Do You Understand How To Run a Business?

Another test that the Revenue has indicated as of importance is your ability to understand and to run a business. To avoid being caught by MSC provisions, you must be able to show that you [run your own company](#), and that it is not run for you by an advisor.

"Normally, a contractor who goes into business knows at least the basics about running one," Marlowe says.

"There is no harm in seeking advice, but you should be careful not to do so from an organisation offering tax avoidance schemes."

A conclusion would be that if you don't know how to calculate [VAT](#) payments, or to determine what salary you are to collect in the coming month, it is time that you learn how to.

Read this Web site, for example, to learn all the basics of the way a company is run. Show that you play an active role in making the decisions about your company. Learn at least the basics of company law that need to be taken into account.

“ There are several areas where contractors should exercise extreme caution ”

Adrian Marlow - Lawspeed

“ Normally a contractor who goes into business knows at least the basics ”

That is the surest way to avoid being tainted with the MSC brush.

about running one



Adrian Marlow - Lawspeed

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