

Contractors need reliable advice, says Barry Roback of JSA

Now that agencies run risks if they give advice to contractors, how can contractors get reliable information about accountants, lawyers, etc.?

Under the [legislation that governs managed service company providers](#), anyone who "encourages, facilitates, or promotes," your work with a [managed service company](#) could wind up having to pay your tax debts if you go broke or just can't pay them. The legislation introduces third-party liability for contractor tax.

Agencies Are First In Line

It used to be that contractors could just ask their agencies to refer them to accountants or lawyers who could help them run their [limited companies](#). Agencies would check out some service providers -- meaning accountants or lawyers or the like -- and then keep a preferred supplier list of the good ones which the agency could recommend.

But since Gordon Brown's last Budget which included the legislation about managed service companies, agencies are afraid to keep such lists anymore, or even to give informal advice. "You probably shouldn't even expect your agent to recommend a restaurant now," as one agency chief puts it.

Accreditation Could Be The Solution

So what is happening? Contractors are taking advice from those who either don't know, or who are deliberately misleading them, and so they are increasingly falling into illegal tax regimes -- incidentally this is just the opposite of what the Government intended with this legislation.

Says Barry Roback, chief executive of the Watford-based chartered accounting firm [JSA](#) which specialises in contractor services: "Accountancy and umbrella service providers urgently need Government accreditation in order stop the flow of contractors working under illegal tax regimes. Accreditation is required to reassure recruitment agencies that they are not at financial risk if they steer their contractors towards HMRC-approved advisers."

Roback points out that HMRC is now concerned about the bad advice that contractors are getting. This is evidenced by HMRC's recent notice reminding agencies that the legislation was not targeted at them but at "workers seeking to avoid employed levels of tax and NICs."

Lack of Clear Guidelines

"The reason HMRC is so concerned" says Roback "would appear to be that because so many agencies have understandably abandoned their PSL's and/or Approved Supplier Lists, the floodgates have been let open to non-compliance, with many innocent contractors being led none-the-wiser into inappropriate tax regimes with potential unexpected tax debt. This has led to a great opportunity for disreputable organisations to step in and seduce contractors into dubious schemes -- many of them located offshore."

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The situation is degenerating, because of the lack of clear guidelines. "The guidelines issued to agencies by HMRC are unspecific yet at the same time so threatening and potentially inclusive that it is hardly surprising that agencies are 'ducking out' and washing their hands of the whole issue."

Call for HMRC Accreditation Scheme

Roback calls for HMRC to introduce an accreditation scheme for service providers. Being accredited as a service provider would mean secure status as not being in any way involved in managed service companies, and so there would be no danger of tax liability for anyone recommending an accredited provider.

The establishment of such a scheme would give agencies the confidence to re-establish the practice of maintaining a Preferred Suppliers List without fear of financial loss.

"HMRC must already have a set of compliant criteria ready -- if it doesn't, how on earth can HMRC be expected to implement the current legislation? At the moment, HMRC is effectively inviting agencies to play a guessing game in which the Revenue gives some 'clues' on how to assess whether a provider is legitimate or not, but warn that if the agency guesses wrongly, they could be liable for transfer of debt," Roback points out.

Roback concludes that HMRC must change its approach if the new legislation is to have any chance

of meeting its goals. "Judging by the tone of the notice, it would suggest that the negative effect of the legislation is already costing the Treasury a considerable sum of additional unpaid tax. Perhaps change is in order."

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