

Contractor exclusive: brown defines managed service companies

ContractorCalculator has obtained the text of the law that will change the way contractors do business in this country: the law that defines managed service companies and explains how they will be penalised under the new tax legislation.

According to the 2007 Budget measure, a company is a managed service company if:

- o its business consists wholly or mainly of providing (directly or indirectly) the services of an individual to other persons,
- o payments are made (directly or indirectly) to the individual (or associates of the individual) of an amount equal to the greater part or all of the consideration for the provision of the services,
- o the way in which those payments are made would result in the individual (or associates) receiving payments of an amount (net of tax and national insurance) if every payment in respect of the services were employment income of the individual, and
- o a person who carries on a business of promoting or facilitating the use of companies to provide the services of individuals ("an MSC provider") is involved with the company

According to the text of the law, any worker who receives his income from a company of the type described above must consider himself an employee subject to PAYE and national insurance deductions. The text goes on to define how the worker's tax will be calculated.

Attacks A Broad Section of the Industry

This very broad definition of managed service companies could be applicable to a large part of the contracting industry.

"The definition has been widened and we have a little more certainty," says Kate Cottrell, of the Westoning, Beds-based legal consultancy Bauer and Cottrell.

"For example a composite falls into the definition of an MSC whereas an 'Umbrella' does not," Bauer explains. "That said we are aware of schemes labelled as 'Umbrellas' where expenses payments are not being treated correctly," Cottrell adds.

"Agencies have now been excluded unless they have any influence or control over certain operations of the MSC. Legal and accountancy services are out but actually not defined."

Three Options

"There are three options for contractors going forward," Cottrell continues. "These are to go on the payroll of the agency, to set up their own [Personal Service Company](#) or to go through a compliant [Umbrella](#). However there may be short term problems in changing the way they operate especially if they are already tied into contracts for some months post April 2007."

But there is serious concern for those who are currently under contract to [managed service companies](#).

What do they do now? Should they move to a personal service company? Do they earn enough to justify such a move?

Need for a New Legislative Model

The attack on managed service companies, announced last December, has now been almost entirely completed by legislation. The result, as most observers agree, will be to drive most contractors who can afford it into forming limited companies-- indeed, the number of [limited company starts has doubled in the past two months](#).

The [Treasury](#) expects this move to earn an additional billion pounds in taxes, but if there is a vast move in to personal service companies, the Government may be obliged to take further steps if it insists on continuing to view contractors as escapee employees.

"What is actually needed is move to understand that contractors who provide services bear no comparison with employee. The Government should support a flexible workforce with new forms of taxation, instead of continuing to think in these terms," says Barry Roback, CEO of the Watford-based specialised accounting firm [JSA](#).

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Kate Cottrell-Bauer and Cottrell

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