

Managed service companies - new revenue guidance for contractors

The [guidance](#) issued by HM Revenue on July 7, 2007 ("GUIDANCE Chapter 9, Part 2 and Section 688A, Part 11 Income Tax (Earnings and Pensions) Act 2003") which explains how the [managed service company legislation](#) will be applied is of considerable help to contractors, observers say.

"This was much needed, and there is much we can now understand better," says Jonathan Legg, a lawyer with the London-based firm [Lawrence Graham](#). "A good number of the issues which arose from the drafts we had seen have been resolved."

Others point to questions that remain. "Unfortunately, there is still some ambiguity concerning agencies and how they should advise contractors," says Barry Roback, chief executive of the accounting firm [JSA](#) which specialises in contractor affairs.

What is a Managed Service Company?

Most observers feel that this question has been resolved. The Guidance lists four essential points:

- o An MSC provides services;
- o An MSC pays a contractor everything or almost everything it takes in from the contractor's clients;
- o Contractors work for an MSC in the same way as they would for an umbrella company, but they don't pay tax and National Insurance contributions as they would with an umbrella;
- o The MSC provider must be "involved" with the contractor's company.

This gives a pretty good idea of what to look for, but the burden is very much on contractors to run their own companies. Don't let someone else manage your payments; make your own decisions about clients, and be prepared to prove it.

As Roback points out, the Revenue has gone to some pains to explain what this means. "It is a good deal clearer, but it's still not quite clear enough."

The Guidance makes it clear that an MSC provider is, first and foremost, a company that "promotes" the use of a corporate structure in a predetermined formulaic fashion. It doesn't provide advice like an accountant or a lawyer, it provides companies which contractors use as though they were umbrella companies.

“ The basic terms of this legislation are now clear ”

Jonathan Legg - Lawrence Graham

But for the legislation to take effect, an MSC provider must also be involved with these companies: this is what distinguishes it from a company providing specialist services like incorporation. The Guidance tries to define the ways in which the provider must be involved with the contractor company. Most clear is financial involvement. As Legg points out, if the provider holds your checkbook, that means the provider is pretty clearly involved.

"But this is a difficult area to define, and it is regrettable that the Revenue could not be more specific," Roback explains. "It is clear that a chartered accountancy firm like ourselves is not included in the definition of 'involved,' but there are other cases where agencies, for example, may not be certain of their status. It would be good if the Revenue could make this clear, but we realise it is not easy.

Agencies Must Vet Contractor Companies

The Revenue has made it very clear in this Guidance that agencies which place contractors with clients are not included in this definition. The Revenue is only concerned with companies that go beyond the role of placing the contractor into running the contractor's business.

The problems arise though when they as agencies are now responsible for ensuring that you, the contractor, is not part of a managed service company. The contractor will find that agencies are asking a lot of questions about how the kind of company the contractor runs.

“ More clarity on what influencing means would be welcome ”

Barry Roback - JSA

This is only to be expected because, should the contractor company fail, the Revenue could have the right to seek tax debt payment from the agency or agencies that the contractor company worked with. But this occurs only in the case where the agency "goes beyond" its placement role. Says Legg: "It's fairly clear now that most agencies are not affected by this provision if they are acting as normal recruitment or placement agencies."

In a speech made in June at a [Professional Contractors Group](#) seminar, Revenue policy director Robin Wythes explained that this kind of debt transfer would only take place in very limited circumstances, and Wythes made specific reference to cases where contractor

income is lodged offshore.

The final text of the law will help to provide final clarification of this last complex provision. But contractors should expect considerable concern for this issue on the part of the agencies they work with.

It's Your Problem Contractor

The conclusion of all of this is that the contractor has to work a bit harder than in the past. Contractors should see that their companies are being managed by themselves, without too much help from others. Contractors need to understand this legislation, as the danger of receiving bad advice and acting upon it could be fraught with consequence.

Published: Wednesday, July 18, 2007

[Tweet](#)

© 2011 All rights reserved. Reproduction in whole or in part without permission is prohibited. Please see our [copyright notice](#). If you want to use any content you have seen on this site then please [request our media pack](#) and ask for details of our Content Licencing Service.

Readers Comments...

 Be the first to comment on this article

Also of interest...

Related Guides:

- [What is IR35?](#)

Related Calculators:

- [Managed Service Company Calculator](#)
- [Contracting To Permanent Calculator](#)

Related Internet Links:

- [Guidance](#)
- [Lawrence Graham](#)
- [JSA](#)
- [Professional Contractors Group](#)



ABCe verified website - last audit confirmed **130,682 monthly unique visitors**

© Copyright 2011 Byte-Vision Limited UK. All rights reserved [Copyright notice](#)