

MSC legislation will affect relationships between contractors and agencies

The new legislation that penalises [managed service companies](#)-- companies that are run for contractors by providers-- has sent a powerful message throughout the industry. There is real concern on the part of agencies and recruiters about the status of the contractors they work with. Are you running your own [limited company](#), or is someone else running it for you? In the latter case, you may have trouble getting more work.

Demand for Repayment Without Notice

Says David Vincent of the London-based [Lawspeed](#), a legal consultancy specialising in contractor affairs: * Recruiters and agencies are most likely to be concerned about 3rd Party Liability – tax debt arising from an association with a managed service company which incurs a tax debt that [HM Revenue and Customs](#) cannot recover. Recruiters could be liable for managed service company tax debts after 6 January 2008 and the sums involved could be very significant especially where a recruiter or agency has a large number of contractors on their books."

"If a transfer of debt is activated there is an immediate joint and several liability for the agency or recruiter whether or not a debt notice is served," Vincent explains. This means that the employment provider could find itself liable for contractor tax debt without even knowing about it! The Revenue will simply appear at the door, as it were, one day and demand repayment.

" Recruiters and agencies are likely to view this as very unfair because it could have a very detrimental effect on the balance sheet and overall value of their businesses."

Checking on Status

"Recruiters are likely to be more prescriptive in determining whether a worker company is a managed service company, This may add to administration and slow down the sign up process," Vincent warns.

In other words, your agency or your recruiter will want to be very certain that you are not working in anything that could be even loosely defined as a managed service company. Some agencies have already circulated questionnaires to their contractors asking for definitions of status. But this is probably only the beginning, as further checks will be made, probably extensive ones at the times a contractor is under consideration for a given contract.

Compliance Checks

What Lawspeed expects is that recruiters and agencies will undertake regular compliance checks of their contractors as well. And they will want to ensure that providers register all their limited companies with the Revenue. "They will also undertake spot checks on PAYE slips provided to the worker to ensure payment is full PAYE," Vincent adds.

What this means in practice is that contractors should know for certain what the status is of the limited companies they are running, and that they should be in a position to prove that status if required to do so. If contractors are unable to prove the independent status of the companies they run, they risk losing contracts.

Contractors need to be very aware of this issue which is unquestionably the hottest topic in the industry today. Ignore it at your peril.

Published: Friday, April 27, 2007

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David Vincent-Lawspeed

“ Failing to ensure independent company status could well mean loss of contracts ”

ContractorCalculator

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