

Treasury opens consultation on contractor expenses

In response to the evidence that some contractors are being encouraged by their [contractor umbrella company](#) to claim expenses which were not genuinely incurred and for which no relief is due, the Treasury has launched a [new consultation](#).

The consultation, titled 'Tax Relief for travel expenses: temporary workers and overarching employment contracts', asks for responses to be submitted by 13th October 2008.

Contractor organisation the [Professional Contractors Group](#) (PCG), is not surprised at the government's actions. According to the PCG's managing director John Brazier:

"Some umbrellas and other providers have been blatant in advertising their use of expenses policies to minimise tax. While tax avoidance is of course legal, it's obvious that expenses rules were never intended to be used in this way – and some providers may not even have been applying the letter of the law correctly in any case.

"So it's hardly surprising that the Government are looking at this. Thanks to some providers pushing the boundaries rather too hard, we now face the risk of another anti-avoidance measure that could have unexpected knock-on effects that at the moment we can barely guess at."

No legislation

Although yet another investigation by government into the lawful business practices of contractors is unwelcome, the consultation has been published at a much earlier stage than previous initiatives, such as the [Managed Service Companies](#) (MSC) and [Income Shifting Tax](#) consultations.

"It's positive that the Government is consulting at this early stage, and has left open the possibility of not legislating at all," continues Brazier. "We will be consulting fully with our members as we provide input to the Government, to secure the best outcome for freelance professionals."

The consultation also specifically states that a decision not to legislate may be taken, which is good news for contractors.

Limited companies are exempt

Another surprise is that the consultation will not target contractors who use [limited companies](#) as their trading vehicle, and legitimate travel expenses incurred by such contractors will not be targeted.

According to the consultation, the focus is on umbrella companies and employment agencies using overarching employment contracts with the contractors on their books.

The government's stance is one of ensuring fairness within the tax system, although cynics may argue that this is yet another ploy to clamp down on perfectly legal forms of tax avoidance, a view taken by the PCG.

Improving compliance

HMRC are apparently encountering difficulties in recovering underpaid tax and National Insurances Contributions (NICs), as umbrella companies have been known to wind-up the business and transfer workers to a new company.

The consultation is designed to suggest actions that will improve levels of compliance so that umbrella companies that stick to the rules are not put at a competitive disadvantage.

And, of course, HMRC will have a greater chance of recovering unpaid tax and NICs and contractors will not be able to deduct travel expenses resulting in a higher tax bill overall.

Proposed actions

Despite their claims that the consultation will not necessarily result in new legislation, the government have proposed two broad options for action:

- o Allow the existing arrangements to continue but introduce legislation to tackle non-compliance; or

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John Brazier, Managing Director,
Professional Contractors Group

- o Remove entitlement to tax relief for travel expenses for umbrella companies and employment agencies using overarching employment contracts.

The proposed action, if it were to become law, would effectively link each separate contract into a single period of employment, for tax and NIC purposes.

Legislation to tackle non-compliance could take a similar form to the transfer of debt provision introduced with the MSC legislation. This would mean unpaid tax and NICs would be recovered from 'specified third parties', where it could not be taken from the umbrella company or employment agency.

It is clear that contractors, and bodies that represent them, should take action now to ensure that a strong message is sent to the government clearly stating that no further legislation is needed.

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John Brazier, Managing Director,
Professional Contractors Group

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