

BREAKING NEWS: Does HMRC think you're a Managed Service Company?



News has reached us that contractors have been receiving letters from a certain well-known accountancy service provider, saying that HMRC have been suggesting that their PSCs (personal service companies) are actually MSCs (managed service companies). This is very bad news.

The difference between a P and an M could actually be a great deal of money and anyone receiving this sort of letter needs to take action swiftly. If the taxman is right about this and you do indeed have an MSC, it means that he can go back four years (possibly more) to redo your tax, so that everything that your company received has to have PAYE operated on it, including you paying an employer's National Insurance bill.

What then is an MSC?

It is defined by an anti-avoidance law brought in in 2007 as a company that has two important characteristics – it has to have an MSC provider, and the MSC provider has to be involved with it. To unpack this a bit:

An MSC provider is someone who 'carries on a business of promoting or facilitating the use of companies to provide the services of individuals'. Concentrate on the word 'facilitating' and apply this to a business that specialises in providing accountancy services to 'companies that provide the services of individuals', a.k.a. PSCs. Does that not sound rather like an accountancy service provider?

'Involved' also has a legal definition of its meaning. There are five ways that an MSC provider can be 'involved' with your PSC, of which three might matter:

- It can make money on an ongoing basis from the provision of your services;
- It can influence the way that payments from your PSC to you are made (e.g. by dividends or a salary);
- It can influence your company's finances.

Getting past these definitions may sound quite a stretch, but unfortunately the way that the courts have interpreted them leaves PSCs on the back foot and with much weakened defences.

Who is liable? It's the contractor!

You may ask: why has my accountancy provider got me into this? Shouldn't they pick up the bill for it?

Fair questions, and it probably is the case that your accountancy provider did actually take steps to make sure that it was not an MSC provider. Unfortunately, if you have received one of these letters, it failed to convince HMRC of this.

What is more, they cannot possibly just capitulate and pay the bill themselves as it will certainly be unaffordable for them – the sums of money will be enormous. On the other hand, they cannot fight the Revenue off without involving you. This is because the taxman has to issue a 'determination' to your company before he can take any action against them.

Worse still, he can also transfer the debt to you, the MSC director, personally, so you cannot just hide behind your company.

What you should do

So what to do if you get a 'determination'? This is a legal document issued by HMRC..

David Kirk, who runs a specialist tax consultancy in this field, provides specialist advice:

1. You must appeal it within 30 days of its being issued or you may be too late. HMRC can accept appeals after this date but are not obliged to.
2. Remember that you have actually paid a lot of tax – something that the Revenue will not be keen to remind you of. If they are asking for £50,000, they need to take account of the fact that you have probably already paid them about £35,000.
3. Check if you have tax fee protection insurance whether it covers you for this. This might help, but the chances are that that while it will cover fees for challenging the Revenue, it will not help you to get the tax offset that you have already paid.
4. Do not let your accountancy provider fight this for you. Some level of co-operation with them will be required, but they are compromised and have their own interests to look after.
5. Join up with others in the same position: these tax raids are ruinously expensive to fight on your own.

ContractorCalculator has worked in conjunction with David Kirk to form the "MSC Survivors Group". The purpose of the group is to work together and pool resources, in a cost efficient manner.

MSC Survivors Group - Get Help

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