

## A contractor guide to evaluating offshore tax planning options

Contractors have a wide range of trading vehicles that are offered for them to choose from and these include both UK and offshore solutions. The number of providers that market offshore tax planning has significantly increased since [Managed Services Company legislation](#) was introduced in 2007.

However, as Derek Kelly of [ClearSky Accounting](#) explains, offshore tax planning can carry some risk, and may not fit many contractors' individual circumstances: "It's important that contractors who are considering an offshore option fully understand the risks as well as the rewards of joining an offshore scheme, and enter into such arrangements with their eyes open.

"There is a lot of mystique surrounding offshore tax planning arrangements, and for a very small number of contractors they can be an effective and legitimate means of operating," continues Kelly. "But before making a commitment contractors should ensure they fully understand how the schemes work and the risks involved."

### Conducting due diligence

Some offshore tax planning arrangements are marketed with solutions that claim contractors can take home significantly higher percentages of their earnings than if they used a UK-based solution, such as a [contractor limited company](#) or [umbrella company](#).

"That's fine," says Kelly, "but contractors are advised to conduct due diligence to ensure they are comfortable with any scheme they get involved with.

"Claims by providers to have HMRC approval or an opinion from a tax counsel confirming that the scheme is within UK tax law should be examined closely so the contractor can evaluate if the scheme will work for them and what any of the risks might be."

And according to Kelly, schemes that are registered with HMRC receive a scheme registration number, but that doesn't mean that the scheme itself has been examined and approved by HMRC and that the contractor therefore carries zero risk.

"Similarly," he continues, "Tax counsels who have provided opinions on tax transactions carried out by some offshore providers will have provided an opinion based on specific circumstances, and the contractor should check that those circumstances match their own and don't leave them potentially exposed to a claim from HMRC in the future.

"Contractors should examine claims of this type so they understand exactly what they mean and whether the offshore solution poses a possible risk to them."

### Evaluating offshore tax management options

To ensure that contractors are taking the right decision that fits not only their commercial and financial profiles, but also and most importantly their risk profile, Kelly recommends the following 4 step plan for evaluating an offshore tax solution. Contractors should:

Make sure they understand the entire arrangement and commercial steps in the process

Check that the scheme is fully disclosed to the UK authorities

Examine claims about HMRC approval or tax counsel's opinion to ensure their circumstances match the details that have been approved or given an opinion on

Seek advice from an independent third party – a qualified accountant or tax expert.

### Greater risk of investigation

As HMRC inspectors are always seeking taxpayers who might provide high 'yields', it is possible that contractors using an offshore solution might have a greater chance of being investigated. An investigation need not pose a problem provided that the contractor has done their due diligence and are comfortable with the scheme they are using. And, of course, HMRC also agrees with this assessment!

Cautious contractors may wish to put aside the tax advantage resulting from the offshore tax solution, so that if it does not work out as planned and HMRC investigate and issue the contractor with a notice for back taxes, interest and penalties, the contractor can survive without incurring financial hardship.

"With the backdrop of ongoing HMRC attention on both contractors and offshore providers," concludes Kelly, "I would urge contractors to think hard and take independent professional advice before making any decisions about their trading vehicle and tax efficient offshore solutions."

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Derek Kelly, ClearSky Accounting



As of Dec 2009, Employee Benefit Trusts (EBT's) are no longer a tax efficient option for UK contractors due to *NEW* legislation. See [Contractor EBT options end due to "disguised remuneration" laws](#).

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