

Will contractors foot the bill for HMRC blitz on Managed Services Company providers?

The taxman has effectively declared 'open-season' on [Managed Services Company](#) (MSC) suppliers that market their services to contractors by claiming that their contractor payment solutions are compliant and unaffected by MSC rules. And contractors could be the ones who end up footing the bill.

HMRC's [latest guidance on the MSC legislation](#) states its intention to target providers offering certain types of offshore and sole trader trading options for contractors. The MSC rules allow HMRC to chase contractors for unpaid tax and National Insurance Contributions (NICs) if the managed services company does not pay the full amount owed.

"The new guidelines from HMRC signify two key changes," explains Martin Hesketh, managing director of [Brookson](#), which provides accountancy and tax services to contractors. "Firstly, that HMRC are sending a message to contractors' service providers that they intend to strictly enforce the MSC legislation.

"Secondly, and this has been confirmed through meetings we have had with HMRC, that they genuinely want a contracting sector that is compliant and has high standards."

'We know who you are'

"What HMRC have said they plan is to target companies offering contractors trading vehicles designed specifically as tax avoidance models," continues Hesketh, "and they have committed to pursuing these suppliers through the courts if need be."

And as many providers of the solutions highlighted in the new guidelines aggressively market their services via the internet and other media, HMRC does not have to look hard to compile its list of potential targets.

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Martin Hesketh, Brookson

Consequences for contractors

Introduced in 2007, the MSC legislation is designed to ensure that contractors who work using payment structures they don't control, such as composite companies or MSCs, pay income tax and NICs as if they are employees and not as if they are in business for themselves and in control of their company.

If the MSC provider does not pay the income tax and NICs due, then the legislation allows HMRC to transfer this debt to relevant third parties, such as the directors of the defunct MSC, the MSC provider, the contractor or even the recruitment agency.

"Contractors are first on the list when the MSC does not pay its taxes," says Hesketh. "If the contractor has been using a trading vehicle that HMRC consider to be a managed services company, they face the very real threat of being held liable for unpaid tax, NICs plus interest and penalties."

Peace of mind for contractors

There are compliant alternatives, as Hesketh points out: "Following HMRC's announcement on the new guidance, if I were a contractor I would not want to be working through one of the targeted trading solutions right now.

"HMRC have effectively now acknowledged that there are credible and compliant alternatives to MSCs, and these include among others contractor [limited company](#) services and reputable [umbrella companies](#)."

Contractor limited company services, says Hesketh, are really no different from what a high street accountant would provide, but with more of a customer care focus: "Contractors will be the shareholders and directors of their own businesses and be in control, which means they are not affected by the MSC legislation.

"They receive highly efficient accountancy, tax, payroll and client invoicing services from an accountancy and business services service provider and not an MSC provider."

MSC audit standard

According to Hesketh, the release of the new guidance reopens the debate about the need for an MSC audit standard: "It is still not clear exactly what form a 'compliant' service provider might take.

"An MSC audit standard would enable contractors and, to a lesser degree, agencies to make informed decisions about the companies they choose to work with and the likely risks they will be facing as a result."

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Hesketh sees the contracting sector as embarking on a period of self-regulation, which can be an effective method to

police and remove rogue service providers through market forces.

“Although it appears the political will to drive forward a standard has evaporated,” he concludes, “HMRC can’t duck the compliance issue and stronger enforcement can only be to the benefit of contractors and legitimate service providers.”

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