

Expenses consultation – contractors must act NOW

Contractors need to act now, and respond to HMRC's [Employment Intermediaries and Tax Relief for Travel and Subsistence consultation](#), or they could risk losing tax relief on all [travel and subsistence expenses](#).

HMRC is proposing to use the narrowly defined test of Supervision, Direction and Control, which it currently applies to the agency and [False Self-Employment legislation](#), to determine whether contractors are eligible for tax relief on their expenses.

If a contractor claims expenses that HMRC subsequently decides are not eligible, then income tax and National Insurance Contributions must be paid on the expenses payments as if they were employment income.

Although contracting experts conclude that genuine contractors and freelancers should not fear the SDC test, HMRC's existing guidance on how SDC should be applied to other legislation is likely to scare many into simply not claiming what they are owed.

The guidance implies that even giving a contractor a project brief puts them inside SDC, although we have been assured that this is incorrect, and there is case law to support this position.

The consultation proposes one option that for every engagement, the client should be asked to determine whether the contractor was under their supervision, direction or control. If they get it wrong, and the contractor wrongly claims tax relief on expenses, then the client will be liable for any unpaid tax.

Naturally, clients will choose the path of least risk and default to insisting every contractor they hire is under SDC. This means contractors will be unable to claim legitimate travel and subsistence expenses.

Only individual contractors using [limited companies](#) and [umbrella companies](#) will be affected. Larger consultancies can continue to claim expenses tax relief for their staff, which the [Association of Independent Professionals and the Self-Employed \(IPSE\)](#) brands as [anti-competitive](#).

It will force many contractors to decline contracts based more than a short commute away and completely rule out travelling overseas for contracts.

The resulting loss in labour force flexibility and reduction in service exports can only damage the UK economy and our global market-leading position in sectors such as the interim management, oil and gas, engineering and IT sectors.

It gets worse. According to the current proposals, freelancers who may have meetings with multiple end-users during a single day could find themselves having to account for several sets of expenses a day, dozens each week, hundreds each month and thousands each year.

The client might be asked by the taxman to decide if SDC applies in each case so that the contractor can claim their expenses for the meeting.

Is HMRC realistically expecting that clients and small businesses have the resources to evaluate and police hundreds of thousands of transactions? Surely these resources are better directed into something constructive, such as economic growth?

Contractors must put pressure on HMRC by highlighting how unworkable the proposals are, the damage they will do to individual livelihoods, the impact they will have on competitiveness and the sheer cost to business of compliance.

The deadline is 30 September 2015 and contractors can make their views known by e-mail to: consultation.intermediaries@hmrc.gsi.gov.uk

They can also write to HMRC at: HM Revenue and Customs Employment Status Team Room 1E/10, 100 Parliament Street, London SW1A 2BQ

Published: Tuesday, September 15, 2015

© 2016 All rights reserved. Reproduction in whole or in part without permission is prohibited. Please see our [copyright notice](#).



ABCe verified website - last audit confirmed 134,482 monthly unique visitors

© Copyright 2016 Byte-Vision Limited UK. All rights reserved [Copyright notice](#)