Oil and gas contractor guide to tax and expenses when working offshore

Limited company oil and gas contractors working offshore around the UK are subject to most of the same rules regarding tax and expenses as their onshore counterparts. But there are some differences and exceptions.

According to Martin Watt, director at contractor accountant **Pipeline Accounts**, only those contractors qualifying as seafarers, contractors spending more than 183 days offshore and in different tax jurisdictions and non-UK-resident expats are likely to benefit from additional tax breaks.

"There is much misinformation about the tax breaks of 'working offshore', but the bottom line is that if a contractor is in UK waters or within a designated area, such as the UK Continental Shelf (UKCS), then they will be subject to the majority of UK taxes, just like an IT contractor sat at a desk in London or Edinburgh," he says.

The peculiarities of working offshore, with clients laying on travel, training and equipment, can make contractors working offshore look at greater risk of **IR35**. But when the core tests of **control**, **substitution** and **mutuality of obligation** are applied, offshore contractors working through their own limited companies are at no greater risk than any other disciplines.

Differing tax treatment for offshore workers

When oil production in the North Sea started, many workers found themselves spending considerable amounts of time outside the 12-mile limit of the UK's territorial waters and therefore technically not subject to UK tax rules. The government of the day made the UK's part of the North Sea a 'designated area', the so-called UK Continental Shelf (UKCS), where normal tax rules apply.

The result, as Watt explains, is that there are only three areas where contractors may benefit from 'tax breaks' when working offshore:

"Contractors meeting the eligibility criteria for seafarers' deductions pay little income tax and National Insurance Contributions (NICs) [see below].

"Contractors working in the Norwegian part of the North Sea, or in other oil and gas provinces around the world, and who would normally fail the UK's **statutory residency test**, may also pay little tax.

For contractors travelling widely or working on a rotational basis, it is possible to apply different tax treaties to reduce their tax bill to virtually zero, even after working in Norway, which has some of the toughest tax laws in the world."

Expats and double taxation treaties

Expat contractors who are not normally UK-tax-resident may also pay little or no UK tax depending on the double taxation treaties in place between the UK and the tax jurisdiction where they are resident."

"Not all double taxation treaties mention the UKCS, so time spent on a production platform outside of the 12-mile territorial limit might enable expat contractors to retain their non-dom status," adds Watt.

There is a further category, not necessarily restricted to oil and gas contractors. Those using offshore tax schemes may benefit from lower rates of tax, and some **umbrella company contractors** whose solution providers pay them via an offshore payroll company may receive some of the benefits of not paying employers NICs.

However, these are not specific to the UKCS or working offshore, and legislation is proposed to tackle schemes that use offshore payroll companies to avoid employers NICs.

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> Martin Watt, Pipeline Accounts

Expenses, travel and temporary workplace rules

"Expenses for limited company and umbrella company contractors working offshore are also treated exactly the same as their land-based counterparts," continues Watt. "The greatest difference is that oil and gas contractor clients will frequently cover the cost of specialist training, equipment and transport to offshore locations."

The temporary workplace rules are also a complicating factor: "The temporary place of work is the offshore platform. If the contractor is working on the same rig for 24 months, then they can no longer claim expenses. If they move to a different offshore platform, it should generally be more than 75 miles away from the original rig to be able to claim expenses again."

In all other respects, limited company oil and gas contractors can claim corporation tax relief for training, equipment, travel and certifications, such as medicals and offshore safety, although in practice clients cover many of the costs.

IR35 risk looks superficially higher

Because the client covers many of the training and equipment expenses, tells the contractor when they need to be on the rig or vessel, provides safety and other equipment, and flies the contractor back and forth from North Sea platforms, HMRC's interest would understandably be immediately piqued.

However, Watt highlights that in every other respect, in particular when considering the **key tests of employment**, oil and gas contractors working offshore present no greater IR35 risks than an IT, engineering or interim management contractor working onshore.

"IR35 best practice applies to oil and gas contractors, so they should ensure they conduct contract reviews, secure a **confirmation of arrangements** from the client where possible, and keep detailed records in case HMRC decides to open an **IR35 review**."

Seafarers' Earning Deduction

Pipeline Accounts Seafarers' Earning Deduction expert and tax senior Douglas Clark, notes that the **HMRC's rules about seafarers** are tough, but that eligible contractors could enjoy an almost tax-free salary.

"An oil and gas contractor must satisfy a set of conditions to qualify for Seafarer's Earnings Deductions," explains Clark. "The contractor must spend 183 days at sea or overseas on holiday during a 365 day qualifying period.

"Deductions can only be claimed when on the vessel and there must be a visit to a foreign port. The vessel must also qualify, and **HMRC has specific rules** about what kinds of ships are eligible. Any kind of offshore platform, drilling rig or floating production platform is excluded."

Contractors seeking to qualify for seafarers' deductions must keep detailed log books, with shipmasters' and immigration stamps to back up their claims for deductions.

Seafarers' deductions are from salaries, not dividends

If the seafaring contractor qualifies, they gain complete tax relief on their earnings after pension contributions, **allowable expenses** and capital allowances. But there is a catch, warns Clark: "The deduction is only allowable on earnings, which means salary and not **dividends**.

"This requires **limited company contractors** to adopt a different strategy to paying themselves, as in this scenario a high salary is preferable because there is no seafarer's deduction on dividends."

Clark recommends that contractors likely to spend any time away on qualifying vessels, such as survey ships or diving support vessels, should spend some time with their accountant to create a payment and tax strategy for the tax years when the voyage is likely to take place.

"Contractors pay their salary, income tax and NICs via Pay As You Earn (PAYE). They then claim back their seafarer's deduction via their **self-assessment tax return**, so we always urge contractors returning from long voyages to submit their returns as soon as possible."

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