

Contractor guide to answering the self-assessment tax return service company question

Contractors completing their [Self-Assessment Tax Return](#) are advised to answer the question about income from services companies in full; not to do so can attract HMRC's attention.

"Genuine contractors have nothing to fear by entering their dividend income and gross salary in response to their tax return's service companies question," explains Daniel Mepham of contractor accountant [ClearSky](#).

"Although there is no statutory requirement to respond to this question, contractors may find HMRC more closely scrutinising their tax returns if they fail to answer it, or if their response is inconsistent with their answer to question six in the P35."

HMRC appears to take no action when supplied with services companies data

According to Mepham, since the services companies question was first introduced into the self-assessment tax return in 2008, he has seen no corresponding increase in [HMRC investigations](#) into the tax affairs of his contractor clients who provided the information requested.

"The objective behind the question may be to assist HMRC with targeting contractors who may be subject to [IR35](#)," he continues. "However, HMRC has many other resources on which it can draw to target [disguised employees](#), and the evidence of our contractors' experiences suggests the taxman is not using this tax return data."

Mepham also emphasises that genuine contractors have nothing to fear from answering the services companies question in full: "If contractors have regularly reviewed their [IR35 status](#), then those inside the legislation should already be applying it. Contractors outside IR35 who are later investigated by HMRC and can demonstrate that IR35 does not apply to their contract can close an [IR35 review](#) before it gets off the ground."

No statutory basis for the service companies question

Mepham agrees with the [position established by tax barrister Keith Gordon](#) of Atlas Chambers that questions the legitimacy of the service companies questions.

Gordon maintains, and HMRC has agreed, that the questions in both the Self-Assessment Tax Return and the P35 have no statutory basis. So taxpayers cannot be penalised by HMRC for refusing to answer the questions.

However, Mepham urges contractors to complete the tax return with the information required: "Experienced HMRC inspectors can easily spot many contractors simply based on the names of their companies and their pattern of paying high [dividends](#) and low salaries.

"So contractors have nothing to gain by refusing to answer the services companies question. And it may unnecessarily attract unwelcome attention from HMRC by leaving the question blank. The natural reaction to a refusal to answer is likely to be, 'What has this contractor got to hide?'"

Consistency with P35 and payroll records is essential

Whatever route an individual contractor chooses to take, Mepham warns against conflicting answers to the service companies question in their Self-Assessment Tax Return differently from question 6 in the P35. They should also ensure the salary information is consistent with their payroll records.

"If there is an inconsistency between the Self-Assessment Tax Return, the P35 submitted earlier in the tax year and a contractor's payroll records, HMRC will find it. Such a discrepancy could form the basis of an investigation and may lead to penalties if the contractor has filed incorrect information."

In practice, says Mepham, most contractors will be presented with the final forms and tax paperwork that will have been completed by their contractor accountant: "But contractors are ultimately responsible for their tax affairs, so they should always check their Self-Assessment Tax Return carefully before approving it for sending to HMRC."

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Daniel Mepham, ClearSky



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