

NEWSLETTER SPONSOR



Run by qualified accountants and lawyers with over 30 years experience, We provide expert payroll and accountancy services and are committed to providing outstanding levels of service and care. It all adds up to the ultimate one stop shop for contractors.

So, why does PayStream make perfect sense..??

1. PayStream believes in offering real choice and listening to its contractors. That's why we don't just offer one service. Whether you wish to operate through a limited company, umbrella company or via CIS, we can help.
2. Our online joining portal enables you to be signed up in less than 10 minutes.
3. Our innovative services means that we will ensure you maximise your net pay whilst ensuring compliance with HMRC
4. You are allocated a dedicated account manager to ensure any queries are dealt with promptly and efficiently

PayStream is certified by Professional Passport as an approved supplier which means using our services won't put you at any risk.

Call 0800 197 6516

Name and Shame Rules Now Implemented!

In the 2009 Budget the Chancellor announced the intention to implement new rules allowing HMRC to name and shame any tax payer who is found to have deliberately understated their tax. We reported this worrying development in our **Budget Special Newsletter back in April 2009**. These rules have now come in to effect.

The rules allow HMRC to publish the name and first line of the address of any tax payer who is found to have deliberately understated their tax by in excess of £25,000.

We believe this can represent a real risk for contractors; especially those working in sensitive markets such as the financial sector, and Government departments.

If HMRC successfully challenged the IR35 status of any contractor this figure could be reached quite quickly; therefore it is essential that all contractors operating outside IR35 through their own limited companies have a full professional assignment review to demonstrate taking reasonable care in assessing their IR35 status.

Where HMRC are able to apply penalties to any additional tax assessed this allows them to name and shame; contractors who can demonstrate reasonable care in assessing their status can avoid these penalties and therefore remove the threat of being listed on the register.

As we have previously reported the requirements to meet the reasonable care definition are not clear; although it is widely accepted that a number of key elements must be present:

- The review of the assignment must be a complete review of both the contract and associated working arrangements; a contract only review is unlikely to meet the full requirements.
- A report must be produced outlining the key factors that were used in determining the final status of the assignment.
- The review has to be carried out at commencement of the assignment.

We believe these are the minimum requirements for contractors to protect themselves from the risks.

It should also be remembered that where the requirements to demonstrate reasonable care are not met, HMRC also has the ability to apply up to 100% penalty of the additional tax assessed.

For many contractors this new threat is a real risk as there is a strong likelihood that many end clients and recruitment companies will use these listings as a point of reference when selecting contractors for roles in sensitive areas.

Professional Passport offers contractors **independent assignment reviews at a fixed cost per annum**, these also come with a years free professional membership. In light of the new rules these reviews could become the best investment you have ever made if you are unfortunate enough to find yourself involved in an HMRC enquiry.

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Support our Work

Become a member of Professional Passport

Membership starts at just £25.00 (+VAT) per annum and provides a wide range of benefits.

Membership fees support our work with government and future developments of our services and website.

Got an issue and need to talk to a real person?

Our members helpline provides one to one support covering a wide range of issues. This service is available to our Professional Members

Umbrella or Limited?

Our assessment reports will help you decide on the most appropriate route for you; providing a bespoke report based on your circumstances.

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We have also updated our **Beginners Guide to IR35** to reflect these new rules.

So what are we doing to help contractors?

As we announced in **last months newsletter** we have agreed a process that allows us to work directly with end clients to accurately assess the IR35 status of the assignments offered to contractors and have this confirmed directly with HMRC.

We believe this unique process is the most robust way to accurately assess the status and provide contractors with the certainty and protection they deserve; as well as saving contractors money in the long term.

We are currently working with a number of recruitment companies and end clients to start putting these arrangements in place and hope that one day all assignments will be offered to contractors with their IR35 status confirmed at outset.

This is just Phase 1 of our overall objective.

Ultimately we would like to achieve agreement on a recognised definition for a Professional Contractor; we outlined this fully in our **February newsletter**.

We are working hard to progress this campaign and believe this represents the best outcome for all contractors that meet this definition as it could remove many of the complex pieces of legislation that currently apply.

We have written to a number of MP's, researchers and advisers to Government to highlight the campaign and have had many positive discussions on the issues.

When successful we hope that this could remove much of the red tape and bureaucracy currently faced by the Professional Contractor; as well as providing real commercial benefits to end clients when utilising the services of a Professional Contractor.

We are keen to gain contractors views on this and have a **feedback form on our website**. No personally identifiable data is collected when you provide feedback.

Recruitment Company Provider Commissions

We would like to make it clear that Professional Passport does not receive any commission from any of its providers if you select to use their services.

We would also like to make it clear that the recruitment companies that are members of Professional Passport, and offer contractors sponsored membership to the site do so as an added value service to their contractors. They too do not receive any commission or payments from providers where you select to use the providers services.

There is a growing trend in the market for recruitment companies to receive direct payments from providers where that provider is listed on the recruitment companies preferred supplier list provided to contractors.

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Are you paying too much for your PI insurance?

Our members scheme will save you money. You only pay whilst you are on active contracts.

IR35 Concerns?

Have all your contracts reviewed for a fixed fee; providing a conclusions report to protect you from IR35 penalties.

Have your say in defining a Professional Contractor

Give us your thoughts and feedback on defining a Professional Contractor.

We do not collect any personally identifiable data on the feedback form.

Join our Network on LinkedIn.com

Join our network on LinkedIn to keep up to date with the latest news and topical issues.

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Whilst we accept that in some cases the recruitment company can reduce the costs of an umbrella when working closely together, for example where self billing arrangements are in place, we feel that the level of recompense now goes beyond any commercial benefit argument.

These payments are now reaching what we believe to be unsustainable amounts.

We have seen examples where some recruitment companies receive up to £15.00 per timesheet; amounts around £10.00 per timesheet are commonplace. A number of companies also allow their consultants to receive commissions from the providers; some in excess of £100 per contractor.

We would have less of an issue with these arrangements if they were transparent and fully disclosed upfront to contractors; allowing contractors to fully understand why certain providers are promoted so heavily by certain recruitment companies; as well as being able to clearly establish the impact on the fees they are being charged.

Where a recruitment company receives £15.00 per timesheet this amounts to a staggering £60.00 per month if the contractor is on weekly billing and ultimately it is the contractor that covers this cost.

We are currently in discussions with our approved providers and hope to be able to bring news to contractors shortly that will save money where you select a provider through Professional Passport and work through one of our recruitment company members. We will announce this as soon as we have the details finalised.

We have also seen evidence that these types of commission deals provide commercial advantages to non compliant providers; as they

tend to have lower operating costs and therefore can often out bid a compliant company. Furthermore, we believe that these levels will ultimately result in the collapse of some providers leaving contractors further out of pocket.

We would suggest that contractors ask both their recruitment company and umbrella provider to confirm any payment arrangements that are in place and take these arrangements fully in to account when recruitment companies are suggesting using the services of certain providers.

We are also aware of a growing number of providers that refuse to make these payments to recruitment companies which can often result in a recruitment company refusing to deal with that provider.

As we stated at the start of the article if you use one of our recruitment company members you can be confident that no payments or commission arrangements are in place; you should look for the Professional Passport logo on your recruitment companies website and ensure they provide you with FREE membership to the site. This will allow you to access any offers and discounts available to our members.

Budget 2010

Overall a Budget with very little news that affects the contracting sector; this Budget had more of an eye on the forthcoming General Election.

There are some points worth noting as they do provide indicators of change that contractors should be aware of.

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Can't decide on umbrella or limited?

Our Beginners Guide to Operating Structures will help you understand your options.

What returns can you expect?

Use our earnings calculators to get a true comparison across the operating options available to you.

Trying to understand IR35?

Our Beginners Guide will help you understand the key points. It's written in plain english with clear guidance and links to many support tools available.

Useful Links

www.hmrc.gov.uk

www.icaew.co.uk

www.lawsociety.org.uk

www.shout99.com

www.contracteye.co.uk

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Tax Avoidance and Manufactured Arrangements

As widely expected the Chancellor indicated a continued assault on tax avoidance with specific mentions relating to schemes that involve loans and trusts.

We believe that regardless of who wins the forthcoming General Election this will remain a key theme and will continue to be a major focus in forthcoming Budgets.

There was a clear indication that new legislation is being written to address the issues and close these arrangements.

Contractors are likely to see increased marketing activity by scheme promoters as they will see their window of opportunity closing and recognise that they only have a limited time to maximise their returns.

With the recent BN66 ruling, effectively giving the green light to impose retrospective legislation, any contractor using these arrangements should do so with a clear understanding of the high risks involved.

Many contractor news sites, that appear to be on the contractors side, promote these arrangements as they represent significant advertising revenues. Contractors need to be aware that these adverts are commercial arrangements and not endorsements of compliance. If you have concerns why not approach the site advertising the arrangements and ask them to confirm what due diligence has been carried out by them before allowing the advert; in most cases you will probably receive a fairly short reply.

Increased Powers for HMRC

The detail of the Budget revealed a new emerging trend of providing extended powers to HMRC.

As we mentioned at the start of the newsletter this included the confirmation of the new name and shame powers for deliberate tax avoiders.

HMRC now also has enhanced powers where a tax payer is found to have deliberately understated their tax position by in excess of £5,000. From a contractors perspective this could mean that HMRC are able to insist on seeing all assignments carried out and confirming the tax position that should be applied. These new powers allow this increased focus for up to 5 years.

As we have mentioned previously, contractors should have independent professional assignment reviews carried out on all assignments to protect themselves from these risks; you **can access details of our service to members here**.

In the past when investigating an IR35 case HMRC often struggled to obtain the full information required from end clients, resulting in a weakened position - this has now changed. The new powers allow HMRC to insist that the information is provided and full co-operation is extended during any enquiry.

In next months newsletter we will be looking specifically at IR35 and the opportunities and threats following the forthcoming General Election; make sure you are subscribed to receive your own personal copy on the day of release.