

**PROFESSIONAL  
PASSPORT  
JOBS**

**Let us take the strain out  
of finding your next  
assignment**

Be the first to receive email alerts  
on new jobs that meet your  
search profile

Upload your CV to allow  
recruiters to find you

International Jobs

You will not receive any spam  
mail if you register on the site

**Register now for free**

## 2011 - Market Views and Expectations

**Firstly we would like to wish all our readers a very happy new year and every success for 2011.**

**Despite the economic downturn and pressures on business 2011 shows some positive signs for the contracting market; although these will be influenced by changes looming large on the horizon.**

The contracting market in 2010 proved itself to be resilient during tough times. Whilst there were downturns and pressures in the market these were not as significant and wide spread as in many other areas.

In some respects the economic downturn may well have helped the market with many employers forced to consider utilising flexible workers and, having now experienced the benefits are now including this approach as part of their business strategy.

Early signs in 2011 point for this trend to continue with many commentators predicting significant growth trends across the whole contracting market.

As the market continues to grow and develop we can be sure of one thing - constant change.

Change is a feature of every developing market and the contracting market is no different. Whilst it could be reasonably argued that the

market has already experienced significant change in recent years more is looming on the horizon for both 2011 and 2012.

Generally there now seems to be a much better understanding of the contracting market, its structure and its importance to the economy; although we still experience embedded perceptions that are simply incorrect and need to be constantly challenged. The surveys we carried out in 2010 have proved a valuable tool in challenging, and in some cases, changing these wrong perceptions and we thank everyone who contributed. We have now closed the surveys although do watch out for new ones throughout 2011.

We are currently analysing the responses and will be sharing our conclusions in our next newsletter.

What you told us in the surveys will shape our objectives and key areas to focus on for 2011 and we will also update these during February.

In the following articles we look at the key changes for 2011, the contractors who could be affected and any actions that can be taken to prepare or protect yourselves.

With so much talk of change in the market we are seeing a growing number of contractors leaving themselves potentially exposed as they are failing to comply with the rules as stated today. With HMRC focussed on increased compliance enforcement throughout 2011 this could prove a costly mistake.

Contractors must ensure they remain compliant with legislation as it stands today and take all the appropriate steps to comply and protect themselves.

**Confused; need some help -**

Contact the Professional Passport Members Helpline for unbiased advice and support

**IT Contractors**

**Want to save at least £300 on your insurance**

- Pay monthly
- Only pay when on contract
- Covers the whole 6 year liability period - other monthly plans don't do this
- 30 seconds to apply, get covered and receive your certificate
- Underwritten by Hiscox the largest name in this market

## What Changes Are On The Horizon in 2011

**2011 looks to be another busy year in the market with many changes predicted affecting all sectors. Here we take a look at some of these key areas and attempt to uncover what impact these could have on the affected contractors.**

### National Minimum Wage Rule Changes - affecting some lower paid umbrella contractors

In January new rules came in to effect preventing umbrella companies from using travel and subsistence allowances to make wages up to the National Minimum Wage. HMRC made it clear that whilst technically this process could have been legitimate in the past it was never intended that the rules would be used in this way and cited examples of how low paid workers were the ones losing out; as a result the rules have been amended to close this loophole.

There were only a few companies that were using this loophole as it was not wide spread or common practice.

All umbrella companies must pay an hourly rate equivalent to the National Minimum Wage to be compliant.

HMRC have made it clear that they intend to enforce this vigorously and could use their new name and shame powers to highlight any non compliant providers.

During HMRC's investigations they also uncovered a practice where some providers and recruitment companies are working together to manipulate the rules; specifically they are billing half the hours at double the rate allowing many lower paid workers to operate through umbrellas and/or claim expenses that would otherwise have been disallowed. They have made it clear that this is also an area they will look at very closely and will not hesitate to apply fraud rules in the enforcement of such arrangements.

### Offshore and EBT's - affecting all contractors using offshore arrangements as part of their payment process.

In December an announcement was made that the Government intends to introduce a general anti avoidance clause and specifically target offshore solutions such as EBT's and manufactured arrangements. Draft legislation has been released as part of a consultation with a view to this being implemented from April. The statement also contained measures that allowed HMRC to back date the rules to early December in an attempt to prevent workers increasing their use of such schemes up to April.

Any contractor who has been working in the UK and using one of the offshore payment providers needs to review their situation immediately.

We strongly recommend obtaining independent advice on your circumstances or you can **contact our members helpline**.

There are a number of critical areas that need to be considered by the users of these arrangements:

continued on page 3 >



## Provider Compliance

Our audited and approved accountancy service providers have all been checked against the MSC legislation.

Our audited and approved umbrella providers have also been checked against appropriate legislation.

< continued from page 2

- Any payments made under these arrangements since December could be subject to challenge by HMRC and result in additional tax liabilities.
- Where the process included some of the income being paid as loans what will now happen to these loans?

If the loans are written off, as we suspect will be the norm, then contractors will need to declare the full amount of loans in this years self assessment tax return. Inevitably this will result in higher taxes being paid by many contractors.

- What are your options if you want to leave your offshore provider as you feel the risks are now too great or they will not be offering a product after April?

HMRC have made it clear for sometime that they intend to clamp down on Offshore, EBT and manufactured arrangements and we can expect to see increased compliance activity during 2011.

## MSC legislation, compliance and enforcement - affecting contractors operating through their own limited companies

When MSC legislation was first introduced in April 2007 the reaction of the market was significant with providers having to amend their complete operating procedures in an attempt to comply.

The providers market had a high expectation that HMRC would be bringing swift action, using these new powers, against any non compliant provider. This has not been the case and with no visible compliance activity in over 3 years the initial impact of this legislation

has been lost.

This low level of compliance activity has also meant that awareness of the legislation in the contracting community is low; even though it is the contractor who holds the greatest risk. Our surveys show that the majority of contractors are unaware of the legislation, have a very low understanding of it, and do not consider it in any way when selecting their accountancy service provider.

This could be about to change.

We are aware of action being brought against an accountancy service provider which is likely to result in over 500 limited company contractors having their tax position reassessed and further tax demands issued.

The demands will be significant as many expenses claimed will be disallowed as will any dividends taken from the companies. Where the contractor's limited company is unable to meet the demands these will become a personal debt of the contractor.

Contractors must ensure that the services they are receiving from their accountants and accountancy service providers do not fall foul of the MSC legislation as it is the contractor who holds the debt.

Provider reassurances should be checked and verified as in our experience all providers either say they comply or, in the case of many accountants, claim to be exempt from the rules and we know this is simply not the case.

If you have concerns or questions you can **contact our members helpline**. You can also check out our **audited and approved providers** who have all been assessed against the legislation.

continued on page 4 >



#### Useful Links

[jobs.professionalpassport.com](http://jobs.professionalpassport.com)

[www.hmrc.gov.uk](http://www.hmrc.gov.uk)

[www.icaew.co.uk](http://www.icaew.co.uk)

[www.lawsociety.org.uk](http://www.lawsociety.org.uk)

[www.shout99.com](http://www.shout99.com)

[www.contracteye.co.uk](http://www.contracteye.co.uk)

< continued from page 3

## IR35 and the OTS Small Business Review - affecting all contractors

The original timeframes set out for the OTS were that they should make their recommendations in time for the Chancellor to consider these for the 2011 Budget, scheduled for March 23rd.

Whilst this timeframe still holds true, in our opinion it is highly unlikely that any significant changes will be forthcoming during 2011. What we could see is a series of consultations on proposed changes and draft legislation targeted for 2012. This extended timeframe allows contractors and all other interested parties the time to input in to the process and prepare fully for any changes; which is something that has not always happened in the past.

We will highlight any new consultations that emerge throughout the year as well as keeping a close eye on any developments announced in the Budget of 2011.

## Agency Workers Regulations - affecting all contractors

The AWR has to come in to force in October 2011 and, depending on the detailed guidance, could influence how contractors operate and structure their businesses in the future.

We understand that the guidance from BIS is due out in March/April and until this is finalised it is difficult to predict with any certainty the changes that will result.

This timeframe ties in nicely with the 2011 Budget and the

combination of the two documents should provide a clearer picture of the intended direction of the market; allowing contractors to make more informed decisions on how to structure their businesses.

We will be keeping a close eye on these developments and reporting any emerging trends to our contractors.

## Department for Business, Innovation and Skills review of business structures - affecting all contractors

Something that seems to have been missed by all are the recent comments made by BIS on some of their priorities -

*"Our priority is to focus on those areas which have the potential to further simplify the business environment and deliver reductions in regulatory burdens for business."*

They go on to state their specific objectives, one of which is: "a review of whether a new corporate form for single person businesses could reduce costs for small entrepreneurs. At present there are hundreds of thousands of limited companies that are owned and run by a single person, and that person has to comply with extensive rules designed to balance the interests of multiple shareholders and directors."

This is an interesting development which hints at potentially wide reaching and significant change.

We will be contacting BIS to fully understand this area and how it fits with the work of the OTS, the review of IR35, as well as the up and coming Agency Workers Regulations. We will of course keep our contractors fully up to date.