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New Rules Will Limit Contractors Choice On Umbrella Providers

HMRC has issued new rules that came in to effect on 6th April 2014.

This new legislation places obligations on recruitment companies to ensure their contractors operate through compliant service providers. Where a contractor operates through a service provider that is not deducting and paying the correct levels of tax and National Insurance it becomes a debt to the recruitment company and can become a personal debt of the directors of the recruitment company.

For this reason recruitment companies are likely to insist that contractors who use the services of umbrella providers must operate through one of their predetermined and approved providers.

Whilst many recruitment companies select these providers based around the right reasons there has been an increase in the number that select their providers on who pays the recruitment company the most commission, this does not always result in the best deal for you the contractors.

We are often asked whether a recruitment company can insist

that contractors operate through certain providers, the simple answer is that in the case of umbrella providers - yes.

That is not the case when you operate through your own limited company and you are looking to select your accountancy service providers.

Contractors that decide to operate through their own limited company will still be free to select any provider of their choice although you should be aware that the recruitment company is likely to ask for more evidence from you to demonstrate the fact that you are operating through your own company and not a disguised structure. The level of this detail will be determined by the recruitment company based on the guidance issued by HMRC.

Selecting the right operating structure for you is a critical step in your contracting career. Once you know the structure it is just as important to select the right provider to support you; whether that be an umbrella provider or an accountancy service provider.

Contractors can call any of our approved providers who will be able to talk you through your options and help you identify which structure could be the best suited for you.

We have, on the following pages, tried to provide some high level guidance that may help you understand these options a little more and identify which one could be right for you.

This information is provided as guidance only and we advise you to seek specific advice on your individual circumstances.

Which Operating Structure?

Read our Beginners Guide

- Agency PAYE
- Umbrella
- Limited Company

A comprehensive guide to help you understand your options.

Confused; need some help -

Contact the Professional Passport Members Helpline for unbiased advice and support

Which Operating Structure?

In the general contracting market it has been uncommon for workers to operate as self-employed when working through a recruitment company as legislation introduced in the late 1980's left the recruitment company potentially liable for unpaid tax bills. The exception to this has been the Construction sector that had specific arrangements.

In recent times a number of providers have offered solutions where they contract with a recruitment company as a limited company payment intermediary and then engage contractors as self-employed in the belief that it protected the recruitment company from the debts.

The recently introduced legislation has been brought in to prevent this and now creates such a high risk position for the recruiters that they are unlikely to engage workers where they are self-employed, whether behind a payment intermediary or not. This also extends to workers in the construction sector, possibly where it will have the greatest impact.

When offered a contract from a recruitment company you may be offered 2 rates:

- PAYE Rate

- Limited Company Rate

The PAYE rate will be much lower than the limited company rate as it assumes that you will work through the recruitment company payroll and they will become responsible for employers National Insurance deductions as well as holiday pay and pensions auto enrolment.

The uplifted limited company rate is paid when a contractor operates through either an umbrella company or their own limited company. The rate is uplifted to reflect the fact that either the umbrella or limited company takes on the responsibility of the employers National Insurance, holiday pay, pensions etc.

Workers operating through an umbrella company can achieve a better overall return when compared to agency payroll as, subject to certain conditions, the umbrella can assess a workplace as a temporary place of work. HMRC then allow you to claim expenses for travel and subsistence to the temporary place of work.

When working through agency payroll or an umbrella company the National Minimum Wage must be paid for the hours worked. For this reason it is unlikely that a responsibly run umbrella provider will be able to take you on at a rate of below £8.50 per hour, and even at this rate it may not be in your best interest as you will be restricted on claiming expenses.