

**Make it easier for companies to do business with you and protect yourself from the risk of identity theft.**

**These ID certificates are portable and can be accepted by all agencies.**

#### Useful Links

[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)

## New Website Launched

We are pleased to announce that our new website is now available.

Based on our members feedback we are sure you will like the new look and feel. We have simplified the menus making navigating the site more straight forward and allowing you to find the information you are looking for more easily.

We have also taken this opportunity to add a wide range of new features and benefits for our contractor members including:

**Validate your ID, Right to Work, Company and VAT registration** to obtain a Professional Passport validation certificate. This means that you no longer have to send copies of your sensitive documents like passport, bank statements and utility bills to agencies. It makes it easy for agencies and providers to deal with you whilst at the same time protecting you from the risks of identity theft. This service is free for our professional members.

**FREE professional membership** when you use the contract guardian products; designed to keep you safe from IR35 penalties and provide a true assessment of your IR35 status.

**Upgraded members PI and PL insurance** with our new members scheme meaning you only need to pay whilst you are on active contract which can save you money.

**Our audited and approved provider listings** are growing all the time; helping you select a compliant provider for your services whether you operate through an umbrella company or through your own limited company.

**A wide range of essential information**, presented in an unbiased and jargon free way to help you in your role as a contractor.

**FREE sponsored membership** is available from agencies where they are corporate members. This provides the same level of access as standard membership so why not ask your agency to provide you with this free access to the site.

**Our members telephone helpline** is available to professional members and provides access to a number of experts who will be able to answer a wide range of your questions across all the key areas.

**Decision trees and risk profilers** across many of the key decision areas helping you understand the issues and assist you in making the right decisions for your circumstances.

**This is just the start**; we are already working on many more features that we will be bringing to our members over the coming months. We will keep all our members fully informed as these become available.

The savings and additional protection members currently benefit from means that the membership fee could be the best investment made this year.

**We feel that IR35 is unfair on contractors for two main reasons:**

**1. The contractor is rarely provided with the relevant documents and information at outset to allow them to accurately assess their status.**

**2. It is always, and only, the contractor that holds liabilities where HMRC successfully challenge the status.**

## The Devil We Know

There has been increased press reporting recently on the campaign to abolish IR35 and we have been asked by many of our members to clarify Professional Passport's position on this issue.

Our position on IR35 remains the same as it has always been; we feel that IR35 is unfair on contractors for two main reasons:

1. The contractor is rarely provided with the required documents and information at outset to allow them to accurately assess their status.
2. It is always, and only, the contractor that holds liabilities where HMRC successfully challenge the status.

The assessment of status has always been based on the terms of a "notional contract" between the contractor and end client; often referred to as the working arrangements. These terms are rarely clarified, or confirmed, at outset, leaving many contractors in the position of assessing their status on a best guess approach.

It is now common practice for agencies to use a standard contract template for their assignments. Where this is the case it is highly unlikely that these contracts reflect the actual arrangements in place.

As we have previously reported; insisting on changes to the contract to make it appear outside IR35 is of limited value when those changes do not reflect the actual working arrangements.

We believe that contractors should be provided with a confirmation of the terms for every assignment at outset. In an ideal world every assignment would be offered with a confirmation of its IR35 status. This would allow contractors to compare the returns across many assignments and more accurately assess their true value.

Contractors would fully understand the tax regime applying to each assignment and so be able to more accurately assess the net returns. It would also allow contractors to more accurately assess the appropriate operating structure for their business.

The two most common complaints we hear from contractors are:

1. They take an assignment believing it to be outside IR35 only to find this challenged at a later date
2. They are unable to obtain the required information to accurately assess status

We have clear evidence that in recent times contractors have accepted the importance of accurately assessing their status. Following the Dragonfly case and the recent introduction of reasonable care penalties, the majority of contractors are now seeking professional guidance on their status.

Where contractors are not provided with the required information to accurately assess their status we firmly believe it is wrong that it is only the contractor that faces the consequences and liabilities.

The recent press reports have suggested that IR35 has only returned around £1.5m of additional tax revenues each year. This figure ignores the additional taxes generated from the contractors operating on PAYE through umbrella companies. HMRC's own estimate is that there are approximately 100,000 contractors using the services of umbrella providers. A simple calculation shows that the additional taxes generated by umbrella providers are likely to far exceed the stated targets of revenue generation.

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**We are committed to finding workable solutions for contractors based around current legislation.**

**We are engaged in active discussions with HMRC, agencies and end clients in an attempt to achieve these objectives.**

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It must be remembered that umbrella providers primarily exist to deliver a simple and cost effective solution to contractors that are caught by IR35 and do not want to run their own limited companies. If IR35 was abolished the tax returns from umbrella providers would inevitably fall.

The only risk to HMRC on tax revenues where contractors use umbrella providers is where the umbrella operates outside the scope of the legislation and fails to pay the taxes due. This area is highlighted in a recent consultation document released by HM Treasury on what they term as “false self-employment” in the construction industry.

The consultation hints at the possibility of the current debt transfer rules being extended to include umbrella providers.

Furthermore, the consultation expresses many of the same principles of IR35, providing further evidence that there is no intention to just abolish IR35.

With the current economic position, the fact that most expert commentators are reporting that taxes will have to rise and the significant revenues being generated by IR35, we believe that no Government would be able to just abolish IR35.

However, we do believe that the prolonged campaign to abolish it could be used as justification to replace IR35 with an even more draconian tax regime that is likely to leave individuals worse off.

The real issue for HMRC is the cost of enforcement. It is clear from recently released information that HMRC intend to have a compliance focus in this area.

This is further supported by the introduction of “reasonable care” penalties, that came in to effect in April this year, allowing HMRC to impose penalties of up to 100% where a contractor cannot demonstrate that they have taken reasonable care in assessing their IR35 status.

Professional Passport are committed to finding workable solutions for contractors based around the current legislation. We are engaged in active discussions with HMRC, agencies and end clients to achieve these objectives.

## What you may not know about Professional Passport

Whilst Professional Passport is not a trade association or representative body we still work hard in the background on issues that affect all our members. Our members’ fees allow us to make significant investment into the business directly for the benefit of our members. In the last two years we believe we have achieved some real results; although we do accept there is still much to do.

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We have worked closely with HMRC to gain an in depth understanding of their interpretation of the MSC legislation and as a result we are the only organisation in the UK that fully audits both umbrella and accountancy service providers before recommending them to our members.

Our audits are now widely recognised as the true standard of provider compliance.

We were actively involved with HMRC in the consultation on travel expenses; which has currently been shelved, although we are sure it will re-emerge at some point in the future.

HMRC have recently issued a report on their findings, following their investigations in to compliance in this area, which highlights a number of issues; don't be surprised if this finds it's way in to the pre-budget report during November.

We were actively involved with HMRC in the consultation on income shifting. The proposed income shifting legislation came about as a direct result of the Arctic Systems S660 case, which found in favour of Arctic Systems. This has currently been shelved, but is also expected to re-emerge, in an amended format, at some point in the future.

We have worked closely with BERR, The Department for Business Enterprise and Regulatory Reform, to agree processes that protect contractors from the risks of identity theft, whilst still allowing agencies to meet their obligations under the Agency Regulations. We are the first, and currently the only, organisation to have agreed these standards.

We have developed our agency membership, allowing over 2,000

contractors to gain free access to the site through agency sponsored membership.

This is only the start. We are currently in discussions across many Government departments on many key issues with a view to bringing further developments to our members.

We are also in active discussions with many agencies as they recognise the benefits of Professional Passport membership and we hope to supply free access to many more contractors over the coming months.

We would like to thank all our members and users for their support and we look forward to bringing you many more developments in the future.