

On April 6th 2014 HMRC's new legislation on agencies and temporary workers became live. The legislation has now placed the liability for workers not being paid via a PAYE payroll squarely with recruitment agencies. Any tax due that is not PAYE or NICs earned at source will become the personal debt of the recruitment company.

In addition, where any workers are engaged outside of a PAYE payroll, the agency now also carries the responsibility for demonstrating to HMRC why this is so.

## So, what of Umbrella Companies?

Engaging workers through an Umbrella Company does remove the requirement for the agency to consider issues of control and supervision. However, it is not enough to simply say that engaging all workers through either their own personal service company (PSC) or through any Umbrella Company is sufficient to address this issues of liability and responsibility. Why is this so?

When it comes to Umbrella Companies, they are not all the same and due diligence through a box ticking approach to compliance checking is no longer enough. It's now more important than ever to know, understand and trust your entire supply chain, and the Umbrella Services Provider(s) within it.

1. Is the Umbrella Company UK based?
2. Are all workers employed?
3. Does the Umbrella Company provide workers with additional alternative models for being paid, such as self-employment?
4. Is the Umbrella a pure PAYE Umbrella Company?
5. How can the Umbrella Company demonstrate timely accurate RTI submissions for its employed workers?

Although HMRCs reporting requirements and potential penalties will not come into play not until May 2015, the liability for unpaid tax will start accumulating now.

## What about PSCs?

The message from HMRC is that this option will also afford protection to the agency. However, agencies have two simply questions to ask first;

1. How confident are they that all the PSCs with which they deal are making correct RTI submissions?
2. What evidence can they give HMRC that the worker is properly in business of their own volition and is legitimately engaged through a limited company?

Without evidence to support both, the agency is at no less risk than were the workers self-employed.

The advice to recruitment agencies is;

- Know your supply chain
- Trust your Service Providers and use them to add value in protection
- Establish a relationship of transparency
- Consider shrinking any preferred or approved supplier lists

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