

NEWSLETTER SPONSOR



I-PAYE offers contractors and interims an excellent umbrella product with professional, efficient service and competitive fees starting from as little as £12.00 (gross) per week.

At I-PAYE we understand you want your umbrella company to offer quality advice and have an in depth knowledge of the UK contracting market, as well as providing accurate, fast and reliable payroll. Our robust system offers security and compliance whilst being flexible enough to adapt quickly to changing circumstances. I-PAYE's friendly account managers are available to talk you through any aspect of our service.

I-PAYE is proud to have taken seventh place in the Sunday Times Fastrack 100. We are also ISO9001 accredited and are members of the Energy Industry Council.

Please call on 0151 449 3500 or visit our website www.i-paye.com.

Our Agenda for 2010

Our recent Contractors' Opinion Poll highlighted a range of issues that contractors clearly feel passionately about. We have used this information to set our primary objectives and focus for 2010.

There are four primary objectives for us in 2010

- Achieving clarity on IR35
- Defining a Professional Contractor
- Creating benchmarked standards and knowledge
- Addressing abuse of ICT's [This was highlighted in our January Newsletter.]

We have outlined our detailed thinking in each of the other three areas below.

Clarity on IR35

There were, as anticipated, a significant number of comments made by responders to the COP expressing a high degree of frustration around IR35. The majority of these centred around the fact that it was almost impossible for contractors to assess their true IR35 status with any degree of certainty. This led to fears of unexpected future tax bills and costs associated with investigations.

- Only 3% of responders felt they were provided with enough information at outset to accurately assess their IR35 status.
- Less than 3% rated their understanding of the rules as excellent.

This led to comments like:

IR35 causes so much confusion and should be thoroughly reviewed.

IR35 status; current rules are completely unfair as look at each contract individually, where as being self employed I also support myself when no contracts

Clear unambiguous legislation around the issue of taxation rather than the woolly IR35 regulations.

To highlight just a few.

We also believe this is the primary reason why over 90% of responders felt that the Government does not value the contribution made by contractors to the UK economy.

Professional Passport has always taken the position that IR35 is unfair on contractors for two main reasons:

1. Contractors are rarely provided, at outset, with all the information they require to make an accurate assessment of their IR35 status.
2. It is always, and only, the contractor that holds any liabilities where HMRC successfully challenge status.

This was reported in our September 2009 Newsletter V2 I4.

Finding solutions to this issue is a primary focus for us.

We believe that after 10 years it must be possible to find an answer to this problem.

We have been working on this issue for the last 2 years and hope to bring some exciting news on developments shortly.

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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.

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.

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.

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Defining a Professional Contractor

Another major focus for 2010 is to begin the work to establish a recognised definition for a Professional Contractor.

We believe that successfully defining a Professional Contractor can bring many benefits to both the contractors and Government.

The current, and proposed, legislation aimed at contractors seems to be based on a number of key underlying principles:

- Preventing unscrupulous employers forcing their workers in to contracting as a way of reducing their costs
- Preventing abuse of the tax system
- A one size fits all approach

It is the last of these three principles - the one size fits all approach - that brought about the passion and emotion expressed by many contractors who responded to the COP.

With the changing shape of business models, accelerated by the recession; there is a real risk that, if no action is taken to address this aspect, more legislation will be applied, further increasing the complexity of operating as a contractor.

In a recent report "The shape of business the next 10 years", the CBI confirmed many experts views that the future business model will consist of a core of employees supported by an increasing number of contractors; they specifically commented:

"As a result of the drive towards flexibility, a significant number of businesses will move to a new employment model where the core of permanent staff is smaller and a greater number of freelancers,

consultants and temporary workers are used. These will be skilled professionals and undertake activities core to operations when needed."

Whilst this can be seen as a positive for contractors; if action is not taken to change the underlying principles then it is unlikely the true value of this will ever be realised.

We believe that by successfully defining a Professional Contractor and having this universally recognised, we will be able to release the Professional Contractor from many of the legislative constraints that currently apply.

If we look at the first underlying principle:

Preventing unscrupulous employers forcing vulnerable workers in to contracting to reduce their costs.

The main attempt made so far to address this issue is IR35.

Where an employer forced an employee in to contracting the employee would be caught by IR35; this has been supported by case law; and therefore the employee would be worse off as they lose all their employment benefits as well as access to many state benefits.

Additional legislation is due to be introduced in 2011 to further address this issue; The Agency Workers Directive [AWD]. The AWD goes further than IR35 in that it forces employers to offer the same benefits their employees have to temporary workers after 12 weeks; in effect treating them almost the same as if they were employees. This new legislation is designed to further disincentivise employers who may wish to push their employees across to the contracting model.

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IR35 Concerns?

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

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.

Can't decide on umbrella or limited?

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

Free access to the site

Your recruitment company can give you free access to the Professional Passport website; why not ask them!

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If we then examine the second underlying principle:

Preventing abuse of the tax system

IR35, as we mentioned previously, was introduced to prevent unscrupulous employers forcing their employees in to contracting and at the same time prevent any opportunity for abusing the tax system.

In addition, a further piece of legislation was proposed in an attempt to address what was perceived as an abuse of the tax system; Income Shifting.

Following universal negative feedback this was withdrawn, although it still sits in the background with a real threat of reappearing in the future. The simple principle behind income shifting is to prevent husband and wife companies splitting their income through dividend distributions as a way of reducing their tax liabilities. This is clearly aimed directly at the contracting market.

The basis of the thinking appears to stem from a belief that a contractors business is entirely different from the traditional business model. A perception exists that contractors often know their business turnover well in advance, unlike most other businesses, and this in turn gives them the opportunity to plan how they distribute that income in the most beneficial way.

Whether or not you agree with these underlying principles we believe that any legislation will always fail when the third underlying principle is applied:

The one size fits all approach

Until recognition of a Professional Contractor is achieved it is hard to

see how true differentiation can exist.

The COP responses supported the view that the market requires segmentation and differentiation between a contractor and a Professional Contractor.

Over 70% of responders described themselves as full time contractors and saw contracting as their long term career. The remainder were either part time contractors or contracting until a suitable permanent position could be found. Clearly there is a distinction between the objectives of these groups.

A deeper analysis confirmed the different objectives, with the majority of career contractors not seeking any form of protection or employment rights as well as confirming that they believe that they should be treated differently.

As a result we are working on a series of definitive benchmarks that when applied will define a Professional Contractor.

We are interested in contractors views on these benchmarks and would welcome suggestions and feedback using **this form**.

When we are able to successfully define a Professional Contractor, and have this recognised, we believe that many other benefits will follow to all related parties:

Benefits to contractors

- Removal from the application of the IR35 rules and tests.
- Removal from the Agency Regulations
- Removal from the AWD
- No need for Income Shifting legislation

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Concerned about sending sensitive documents to your agency?

Our electronic ID validation provides a portable certificate accepted by many agencies and removes the need to send your sensitive documents. This is free for our Professional Members.

Join our Network on LinkedIn.com

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

Looking for a compliant provider?

All ours have passed the Professional Passport audit; the toughest assessment of compliance in the market.

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The successful differentiation of the Professional Contractor also provides significant benefits to recruitment companies by removing much of the red tape and bureaucracy that is currently applied when dealing with all contractors; in turn making Professional Contractors more easy to deal with.

End Clients also benefit as they too will have many of the issues and threats they perceive removed.

Professional Contractors would always be engaged on a business to business relationship and therefore no threat of employment rights or tribunals would exist.

The Government would also benefit as it:

- Aligns to the Government objective of a fairer tax system for all
- Aligns to the Government objective of reducing red tape
- Aligns to the Government objective of simplifying legislation
- Presents no threat to tax revenues
- Reduces the need for further legislation
- Allows compliance resources to be more effectively deployed

Professional Passport believes that rather than abolishing the current rules in their entirety, a more productive approach would be to ensure these rules are applied in a targeted way addressing areas where the risks are present rather than applying them universally.

Furthermore we believe this would satisfy those contractors who

responded to the survey suggesting abolition of certain rules; such as IR35, as they would, in the main, be removed from their application in essence achieving the same result.

It is important for contractors to be involved in this campaign and we would welcome your views, comments and ideas on this area; we have provided a **feedback form** on the site for this.

We must also recognise that with a General Election due later this year, this process will be more complex than usual and may take time.

Raising standards and knowledge

Feedback from the COP clearly showed that many contractors rely on third party advisers to guide them through the complex legislation that applies specifically to the contracting market. 95% of responders confirmed that they rely on third party advisers in some aspect of operating as a contractor.

Other research we have carried out shows that the level of knowledge, services and advice varies significantly between these third party advisers. Where these providers fall short, this will leave contractors unknowingly exposed.

As a result Professional Passport has developed a series of specialist training events for providers and their staff.

These events are designed to increase knowledge across all the key areas leading to high quality consistent advice to contractors.

We are currently launching this to the provider market.

Confused? Need to talk to a real person?

Upgrade to Professional Membership and get a years access to our members telephone helpline where you can discuss any issues with one of the experts.

Want to read more articles?

Our newsletter archive gives you access to our past editions covering a wide range of topics.

Useful Links

www.hmrc.gov.uk

www.icaew.co.uk

www.lawsociety.org.uk

www.shout99.com

www.contracteye.co.uk

Raising Awareness

If you agree with our views and campaign agenda for 2010 you can also become involved and support our work by joining as a member; from only £25.00 (+ VAT) per annum.

Membership fees provide the funds to support the work.

You can also support our work by raising awareness across the wider contracting community.

Please feel free to distribute this newsletter to all contractors you know or work with to help us raise awareness of our campaigns.

The more support we can demonstrate the easier it becomes for us to influence the key decision makers.

Feature Focus - Contract and Assignment Status Assessments

Until we can successfully achieve our objective of defining a professional contractor and having them excluded from many aspects of the legislation the requirement to assess each assignments status for IR35 remains.

Only 3% of responders to the COP confirmed a high level of knowledge in relation to IR35 legislation therefore it is essential that

contractors who operate through their own limited companies obtain a professional assessment on their assignments status.

The difference between the tax due on an assignment outside IR35 versus one inside IR35 is significant; in the case of a contractor operating with annual invoicing of £75,000 this could amount to additional tax of around £12,000.

Where you were unable to demonstrate taking reasonable care in assessing your status at outset HMRC has the ability to add penalties of up to 100% to this figure.

Whilst we believe it would be rare for HMRC to apply for the full 100%, for the purposes of this example we will assume a penalty of only 25%; amounting to an additional demand of £4,000; making £16,000 in total.

Having your assignment professionally reviewed at outset protects you from the risk of these additional penalties.

Our Assignment Review service provides professional assignment reviews on all assignments carried out in a year, with a report that meets the requirements to demonstrate reasonable care at outset.

This service has a fixed annual fee of £199 (+vat) and comes with a years free professional membership included.

The service will review ALL your assignments within that year for this price.

With HMRC confirming an increased budget for enforcing compliance in 2010 we believe this provides excellent value for money for contractors.

Full details of the service can be found here.