

NEWSLETTER SPONSOR



Excellium are fully audited and approved by Professional Passport, which allows you to get on with your job, without having to worry about things such as tax and compliance risks.

With our state of the art portal EBS and the launch of Excellium TV we have established ourselves as an innovative, forward thinking company that provides the very best umbrella experience available.

[Click here to find out more.](#)

New Government - New Opportunity ?

With the new cabinet now in place; we have written to the new ministers, across many of the departments, to further our campaigns for changes to legislation currently affecting the contracting market.

Following our extensive research and feedback from across the whole market it is clear that whilst IR35 is a major issue it is only one part of the overall problem.

Our letter follows up the pre-election promises and the confirmation within the recently released document *The Coalition; our programme for Government* promising a review to IR35. It suggests that a more wide ranging review may provide a more robust ongoing environment for the contracting market. The areas we have covered include:

- IR35
- Agency Workers Regulations
- The Conduct Regulations
- Preventing Illegal Working
- Income Shifting
- Provider Compliance

Our suggestions focus in on achieving segmentation of the market

and then applying any legislation to the appropriate segments; rather than the current situation of it applying equally to all.

As we have stated previously, we believe that by defining a Professional Contractor this would allow those meeting this definition to be removed from much of the red tape and bureaucracy that currently exists and put them in a commercially advantageous position when seeking new assignments.

We have provided a high level summary below of the key points we have covered in the letter.

We will keep our members informed of any progress through our Intell Newsletters.

IR35 Key Points Summary

- Agree parameters for defining a Professional Contractor.
- Remove all Professional Contractors from the IR35 rules.
- Those that do not qualify as a Professional Contractor; should be provided at outset with confirmation of the working arrangements associated to an assignment, to allow a more accurate assessment of IR35 status.
- Agree transitional arrangements from current rules to new rules which should include assurances on past assignments.

Agency Workers Regulations Key Point Summary

- Remove all Professional Contractors from the AWR rules.
- Make amendments to the rules to make them more umbrella contractor friendly.

continued on page 2 >

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.

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

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.

< continued from page 1

The Conduct Regulations

- Remove all Professional Contractors from the Regulations.
- Retain the option to Opt Out for all other contractors.

Preventing Illegal Working

- Include an electronic check as part of the statutory excuse.
- Allow end clients and recruitment companies to rely on certain third party validations.
- Provide clarity on limited company contractors and when checks would be required.

Income Shifting

- Confirm that there is no intention to revisit this previously proposed legislation and it is no longer required following the full review.

Provider Compliance

- Address the issue of timesheet commissions demanded by many agencies that have resulted in increased charges to umbrella contractors and allowed many non compliant providers to gain a foot hold in the market.
- Apply uniform expenses policies and dispensations across the umbrella market to create a level playing field.
- Extend debt transfer rules to any umbrella company with systemic failings. Contractors should be excluded from any liability where they use an umbrella.



Tell Us What You Think

Historically many decisions made by Government in relation to the contracting market have been based solely on perception as there is little real data on the market available.

With a new Government now in place, it is essential that we work together to change these perceptions. We currently have a small window of opportunity that should not be missed; it could be some time before a similar opportunity for change presents itself again.

Our Contractors' Opinion Poll [COP] is designed to gather specific information directly from you the contractors who work in the market. This provides us with real data and market intelligence that is vital in changing these perceptions.

As with any survey the larger the sample the more power the results hold and for this reason we encourage all contractors to complete the survey; it only takes two minutes of your time.

You can access the COP survey here.

We are also looking for feedback on the campaign to define a Professional Contractor and you can access the feedback form **here**.

We do not collect any personally identifiable data in either the COP or feedback form.

Please take two minutes to get involved and make a difference.

Are you paying too much for your PI insurance?

Our members scheme will save you money. You only pay whilst you are on active contract.

IR35 Concerns?

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

Have your say in defining a Professional Contractor

Give us your thoughts and feedback on defining a Professional Contractor.

We do not collect any personally identifiable data on the feedback form.

Join our Network on LinkedIn.com

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

Limited Company Contractors - P35 Question 6

Contractors operating through their own limited companies would have now completed their P35 company returns.

We felt it important to reiterate that the answers provided to this two part question are used by HMRC as part of the risk analysis when they are considering any companies to investigate.

Part one of the question should be answered yes if ...

...an individual personally performs services for a client and the services are provided not under a contract directly between the client and the worker but under arrangements involving the limited company, limited liability partnership or general partnership (the service company)

...the limited company, limited liability partnership or general partnership's (the service company) business consists wholly or mainly of providing the services of individuals to clients

Part two of the question is only required where you answer yes to the first part; which the vast majority of contractors will.

The second question should only be answered yes if income has been treated as deemed employment income and PAYE (Pay As You

Earn)/National Insurance (NI) deducted in accordance with the Managed Service Company or Intermediaries legislation (IR35).

These answers allow HMRC to accurately identify all companies that have not applied the Deemed Payment approach and therefore consider themselves as operating outside IR35.

This is also the first year where if an enquiry is opened you will be required to demonstrate that you took reasonable care in assessing your IR35 status; where you operate as outside IR35.

Failure to demonstrate this will leave you exposed to additional penalties of up to 100% of the tax assessed.

2009 saw the introduction of this new rule which has not been widely reported across the market and we have found many contractors still unaware of these requirements.

It is widely believed that to demonstrate reasonable care you must be able to show that both the contract and working arrangements were reviewed at outset. You will also need to have a summary report of why the conclusion that the assignment was outside IR35 was reached, pointing to the key determining factors in both the contract and working arrangements. This has to be shown as carried out at the time the contract, extension or renewal was issued.

Without each of these elements, and where HMRC successfully challenge your status, these penalties can be applied.

In our experience many of the contract reviews on offer across the market fall short of these requirements as often they fail to review both the contract and working arrangements. Furthermore many fail to deliver a report highlighting the specific reasons and evidence that resulted in the conclusion.

continued on page 4 >

Can't decide on umbrella or limited?

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

What returns can you expect?

Use our earnings calculators to get a true comparison across the operating options available to you.

Trying to understand IR35?

Our Beginners Guide will help you understand the key points. It's written in plain english with clear guidance and links to many support tools available.

Useful Links

www.hmrc.gov.uk

www.icaew.co.uk

www.lawsociety.org.uk

www.shout99.com

www.contracteye.co.uk

> continued from page 3

We have worked closely with Bauer and Cottrell on this issue and established an assignment review that will meet the requirements to demonstrate reasonable care. Where you access the service through Professional Passport you will also be provided with one years FREE Professional Membership with all the additional benefits that this provides, **you can view a summary of the benefits here.**

The reviews are a fixed price and will cover all your contracts, renewals and extensions carried out in that year, providing real peace of mind; if you are unfortunate enough to be investigated it will protect you from the risks of reasonable care penalties.

You can access the details of the assignment review service here.

This could be the best investment you make this year.

Emergency Budget Date Announced

The emergency Budget will be held on 22nd June.

As always we will follow events closely and provide a summary of any aspects that impact contractors and the contracting market.

This emergency Budget will focus on the specific actions to address the current deficit. It also provides the first opportunity to announce any planned reviews, such as IR35 and layout a time table.

It is possible that these reviews could be carried out with a view to announcements in the Pre Budget Report usually held in early December.

Traditionally it is the Pre Budget Report that has announced any major changes affecting the contracting market as this allows time for implementation prior to the new fiscal year that starts in April of the following year.

This could give us a good idea of where issues such as IR35 sit in the overall priority list of the new Government.

During the election campaigning, the Conservative Party committed to a new office to be tasked with reviewing current tax legislation and identifying ways of simplifying the approach; it will be interesting to see if any announcements are made with regards to this.

Spread The Word

Please feel free to send this newsletter to any colleagues operating as contractors.

It is important we encourage as many contractors as possible to complete the COP and provide feedback on defining a Professional Contractor.

They can register for free on the site to obtain their own copy of future newsletters and we do take privacy seriously - we do not supply any data to third parties and you will not receive marketing emails as a result of registering on Professional Passport.