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## Professional Passport Accepts Invitation to Join OTS Review Committee

**Professional Passport has accepted the invitation to join the Consultative Committee of the Office of Tax Simplification carrying out the review of Small Business Taxation (including IR35).**

**The Office of Tax Simplification** was set up by the Chancellor in July of this year to provide the Government with independent advice on simplifying the UK tax system.

The Chancellor has asked the OTS to start with two reviews; a review of all tax reliefs and a review into small business taxation, including IR35. The OTS has set up a Consultative Committee for each of these projects and Professional Passport is a member of the Consultative Committee carrying out the review of Small Business Taxation, including IR35.

The aim of the Consultative Committees is to provide input in to the OTS's projects by way of guidance, practical insights and as reviewers/critiques of the OTS's output. The overall aim is to produce reports that are evidence-based, balanced and credible.

Committee members are made up from individuals with a particular interest and/or expertise in the areas being reviewed and come from the business, tax practitioners and academic communities. There will

be about 15 members in each committee plus a member from each of HMRC and HM Treasury.

The OTS's view is that this will result in a wider pool of expertise to draw on, with the specific objective of complementing the practical knowledge of the OTS staff.

The Consultative Committees will work by way of both occasional meetings and discussions as well as e-mail exchanges.

Consultative Committee members will be encouraged to become genuinely engaged in the work of the reviews and provide as much input as possible.

Crawford Temple commented *"We are delighted to have been given this opportunity and recognised as experts in the contracting market. We can assure all our members that we will be actively involved in influencing the outcome."*

*The initial terms of reference are very encouraging and provide a good basis to deliver a real positive change. There will be challenges; one obvious one is the lack of hard data available on the market, and we see part of our role is to ensure that the direction is influenced by hard data rather than perception."*

He went on to say *"Contractors really can have a direct input in to the review through Professional Passport by completing our surveys. These have been designed to collect hard evidence to challenge the long established perceptions. The views expressed by contractors will also shape our input and feedback in to the Committee."*

*We would like to encourage all contractors to become actively involved and complete the surveys; for the hundreds that already have - thank you."*

## Make your voice count -

**The Office of Tax  
Simplification wants to  
know what you think**



**We need your feedback  
Help us define a  
PROFESSIONAL  
CONTRACTOR**

**IR35**

**Tell us what  
you think**

## OTS is listening and wants your views - FACT!

**Following our meeting with the OTS and after providing them with the interim results from our surveys they agreed that it is essential to seek the views of contractors directly. Professional Passport has organised for a group of our contractor members to meet with the Office of Tax Simplification to allow them to make their points.**

As we previously reported there is clear evidence that the Office of Tax Simplification really does want to understand the issues in the market before reaching any conclusions. Their pragmatic evidence based approach seems to be prepared to challenge any preconceived ideas or perceptions that currently exist about the market.

Part of this process includes meeting groups of interested parties from different sectors of the market in an attempt to understand the issues from each perspective; we support this approach.

Following our meeting we have been asked to arrange a series of group meetings where each of the sectors can make their points directly to the OTS. We have organised meetings for contractors, recruitment companies, end clients and our approved providers allowing each sector the forum to highlight their thoughts directly.

Professional Passport believes this review provides a unique opportunity to address many of the issues currently faced in the temporary workers market and whilst the review is focussed on small business taxation including IR35 we are certain it will throw up a range of much wider issues that exist. Highlighting these wider issues now could provide a platform for more far reaching reviews and changes to the market in the future.

With the OTS reporting their findings directly to Government we feel that an open all encompassing approach needs to be adopted by all interested parties to ensure that all the issues are highlighted, considered and reported on.

For those not directly involved in the meetings but still want to have their thoughts fed in to the process you can complete our current surveys;

**Contractors Opinion Poll** - a wide range of questions based on your current operating structure.

**Defining a Professional Contractor** - feedback on our thoughts for defining a Professional Contractor and in doing so remove them from the excessive red tape and bureaucracy; allowing them the freedom enjoyed by every other small business in the UK.

**IR35 Survey** - obtaining your views on IR35.

You can of course send your views directly to us and whilst we cannot guarantee that we will be able to respond to each; we can assure you that they will be read and the points noted.

This is the best opportunity for 10 years to influence the future direction of the market and we must all work together to ensure the best outcome.

## **Confused; need some help -**

Contact the Professional Passport Members Helpline for unbiased advice and support

## **IT contractors - Save money on your insurance**

Monthly paid plan where you only pay whilst on contract and you are covered for the whole liability period - no other monthly plan provides this level of protection.

NEW UPGRADE - retro cover now provided at no extra cost covering all your past assignments.

**Just £22 per month**

## **Concerned over IR35**

Don't be - The Professional Passport Professional Assignment Review assesses all your assignments in a year and provides protection against reasonable care penalties

## Agency Workers Regulations from a Contractors Perspective

**Following an election pledge to amend the Agency Workers Regulations the Government has now announced that the regulations will come into force unchanged; in this article we look at the potential impact this could have on contractors.**

Europe passed a directive forcing all member states to introduce legislation providing enhanced rights and protection for agency workers; all member states must introduce these new rules by October 2011.

The Labour Government agreed the terms of the legislation with support from the CBI and the Trade Unions. At the time the Conservatives described this as "gold plated" and going well beyond the requirements set out in the Directive, making election pledges to review and amend the rules more aligned to the core requirements of the directive.

Edward Davey, Minister for Employment Relations announced in Parliament that on reflection this would not be possible. He explained that there were legal reasons why change was not possible as it would require the backing of both the CBI and Trade Unions and this had not been achieved. He confirmed that efforts will be made to ensure the guidance issued to support the legislation would

provide clear direction on the issues and concerns that have been widely raised.

### **So what does this mean for contractors?**

The rules are designed to provide comparable rights to agency workers as those offered to full time employees after a 12 week qualifying period. Whilst the detailed guidance is yet to be produced the broad concept means that any worker engaged through agency payroll will be automatically included within the rules; workers operating through MSC's will also be included within the rules. Contractors operating through umbrella companies could be caught depending on whether their umbrella meets a series of tests; most notably paying a prescribed level of income to workers between assignments. Limited company contractors will generally be outside the rules where the terms of their assignment reflect self employed status; effectively where the assignment falls outside of IR35.

Failing to meet the requirements of the legislation can have financial implications for umbrella providers, recruitment companies and end clients; where a worker brings a successful case.

### **Umbrella Contractors**

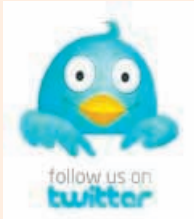
Whilst we anticipate that many of the current umbrella providers will amend their models to meet the new requirements we believe it will be the recruitment companies and end clients that will influence workers operating structures in an attempt to limit any potential liabilities.

Umbrella contractors are likely to come under pressure to operate through their own limited company with employers and agencies relying on the assignment being outside IR35 to avoid the rules.

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#### Useful Links

[jobs.professionalpassport.com](http://jobs.professionalpassport.com)

[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)

[www.contracteye.co.uk](http://www.contracteye.co.uk)

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#### Limited Company Contractors

Contractors operating through their own limited companies are not likely to see any major changes other than end clients becoming more focused on ensuring the terms of their assignments reflect a status outside IR35; as this will remove the complexity of the new rules.

We know that assessing the status of any assignment has been a thorny and complex issue since the introduction of IR35 over 10 years ago. The true nature of the assignment is assessed by examining the relationship between worker and end client, ignoring any parties in between; this is often referred to as the notional contract. It will, for the first time, be in the clients best interest to confirm terms as outside IR35 as this removes a complex layer of red tape and bureaucracy whilst at the same time removing any potential liabilities from them. This will also benefit contractors as end clients and recruitment companies will have a real incentive to ensure that the terms of an engagement fall outside IR35; allowing contractors the freedom to pay themselves salary and dividends and in turn reduce their overall tax liabilities.

Many of the Professional Contractors reading this could feel encouraged by the news but a cautionary note must be added:

With The Office of Tax Simplification currently embarking on a review of IR35, with an underlying objective of achieving a tax neutral position, things could change dramatically before the new rules come in to effect.

If IR35 is abolished, as some are pressing for, it will have to be replaced with a new tightly prescribed series of tests to assess the true status of the relationship; this ultimately could result in everyone

being placed in a worse position.

It will also have to consider the impact on umbrella providers as if it is believed that contractors will move to operating through their own limited companies this will have an impact on the overall level of tax paid.

Ultimately, as we have stated on many occasions, the market needs to have an effective segmented approach, allowing appropriate legislation to be applied to the relevant segment and removing, what we term as, the Professional Contractor from the red tape and bureaucracy that they neither seek nor want.

Professional Contractors should be allowed to operate in the same way as any other small business and not be burdened with additional legislation. We are seeking **feedback** on our proposals for defining a Professional Contractor and would ask you to take a minute or two to share your thoughts.

We also believe that umbrella companies provide a valuable service to the sector and so long as the issue of compliance can be more robustly enforced there are real benefits in allowing them to grow their services to the sector; something that will be severely undermined by the new legislation.

As we are directly involved in the review process with the OTS we can assure our members that we will be pressing these points and attempting to ensure that a new version of a “one size fits all” approach is not adopted.

We are still running our **Contractors Opinion Poll** and we would ask contractors to complete this as the results provide hard data that do help support the arguments for a positive change.