

JTC NEWSLINE

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Managed Service Companies

HMRC has issued an attention grabbing warning about managed service companies in their publication known as Spotlight.

The Managed Service Company (MSC) regime was brought in to counteract tax avoidance schemes which had been set up to avoid legislation known as IR35:

- Typically, an MSC would be set up to manage the affairs of a group of workers, each of whom would own shares in and be paid by the MSC, avoiding NICs by using dividends.
- The MSC rules can also apply to managed personal service companies with only one worker/ shareholder/director.
- A key requirement in both cases is that there is an 'MSC Provider' who is involved with the company. This is usually a firm acting as accountant/book keeper
- When a worker supplies their services via an MSC the income paid into the MSCs is treated as deemed employment income subject to PAYE and NICs.

The MSC rules were recently considered by the courts for the first time in the FTT case of **Christianuyi Limited & Others v HMRC [2016] TC05045**. HMRC were successful in that case and, although the taxpayer has been given leave to appeal, in Spotlight HMRC state that:

- It is their firm view that such arrangements don't work.
- They continue to open enquiries into users of similar arrangements across a number of industry sectors (including haulage, health, care and education) and will continue to do so.
- They will transfer irrecoverable tax or NIC debts to others, including the service company's directors, the MSC provider and the MSC provider's directors and associates. ■

Paying HMRC in October

In October, the electronic payment deadline of the 22nd falls on a Saturday. To make sure payment reaches HMRC on time you need to have cleared funds in HMRC's accounts by the 21st unless you are able to arrange a Faster Payment to clear on the payment deadline. ■

CIS verification

A question from a member

Our company has 1,500 or more subcontractors which we apparently have to re-verify. We file our returns via software but verify via HMRC online. We would be prepared to as you suggest "bite the bullet" and re-verify (even though we are not legally obliged to), however this is impossible to do online because there is no "untick all" button, and by the time we are able to untick 1,400 subcontractors (to leave 100) and click next we are thrown out of the system and have to log on again, back to a list of 1,500 subcontractors to verify. It is physically impossible for us to re-verify because of this!!

An answer from HMRC which might be helpful

This is going to be a long drawn out process, I'm sorry to have to say. We are working on it but it involves finding money which is not easy these days. Hopefully things will move along soon. In the meanwhile, a third party software option will, of course, take away the problem completely (and permanently) for this firm. I see what they say about unticking 1,400 subcontractors but I do know that some have done this and been successful.

And from Liz Bridge

It seems there is a new Olympic sport on the horizon, speed unticking. The answer from HMRC is unsatisfactory but they know that. The truth is that the change over between CIS systems has not been painless and there is no money to right the problem. Everyone has to make a way out of this as best they can. It may be that deleting all subcontractors and beginning again with only the subcontractors you currently use is the only viable option. ■

Intermediaries Legislation (IR35) guidance

HMRC have reworked the 'find out if it applies to you' part of the guidance for IR35 Companies. These are most commonly private companies where the owner/shareholder/director is also 'the worker', and the company find him/her their work. In construction we see them a lot as one man limited companies used to avoid PAYE on workers' wages.

If you or anyone you know operates through such a company they would be well advised to read the new guidance and talk to their accountant about it.

www.gov.uk/topic/business-tax/ir35 ■

An entirely different CIS problem thrown up by the new CIS system**A member writes..**

We seem to have a problem caused by the rounding that our accounts software (Evolution M - supplied by Integrity Software) uses to calculate the CIS tax. It rounds off the pence for CIS payment purposes. On our returns you can easily see that the materials value plus the tax value does not add up to the gross value. But the new HMRC system seems to expect us to return a tax deduction correct to the penny. Integrity have told me that this is one of the two accepted ways of calculating the CIS tax and up until July we had never had any messages or problems.

What have HMRC said..

They are aware of the problem and admit that their computer system has become super sensitive and is sending out messages when it shouldn't. As long as you are confident that you have applied the correct tax treatment you can ignore the messages.

HMRC accept that they advised software companies to calculate on whole pounds only. Unfortunately when their system sees that the calculation is, say 5p out, it assumes the deduction is wrong and sends out an error message.

Hopefully, this problem will be fixed in the next couple of weeks. ■

Guidance on PAYE reporting for PAYE intermediaries

If you are an Intermediary for this purpose you must sit up and find out more. For example, if you act as a labour agency providing workers for other businesses or if you provide gangs of brick work subcontractors to housebuilders, or plumbers and pipe fitters to a main contractor.

The guidance was released on 26 July 2016 and explains the level of detail required in reports to HMRC that must be made of any worker who is not in a PAYE scheme run by them. If you think it could possibly apply to your business you **must** look.

Visit www.gov.uk/government/publications/employment-intermediaries-reporting-requirements ■

Consultation on aggregates levies exemption for laying underground utility pipes

This consultation has a closing date of 18th October. I do not have enough experience of the problems it attempts to address to respond. If your business is affected, if you have already responded, please can you contact me and I will do a JTC response with some help from a friend. If you will be affected by the proposals and have not seen the consultation, email and I will send a link.

Contact: liz@thetaxbridge.com ■

Unified business rates

I am getting very unhappy messages from the specialists who advise on business rates about the changes to the rating system that are currently under consultation. It suggests that if you have a niggling doubt that your commercial premises are not correctly valued for rating purposes, now would be the time to sort out the issues. The proposed new system will not allow for appeals at all unless the error made by the valuers is substantial. It seems to be a 'like it or lump it' system intended to cut the current large numbers of appeals. A review of your business rates may be a useful exercise this autumn. ■

VAT & multiple building dwellings: HMRC policy change

HMRC have released Revenue and Customs Brief 13 (2016), 'VAT, the liability treatment of a dwelling formed from more than one building'. This sets out a change in its VAT treatment for construction and conversion of dwellings.

HMRC had considered that whilst a building could contain more than one dwelling, a dwelling could not be formed from more than one building. Recent conflicting First Tier Tribunal cases have caused a policy change: they now accept that a number of buildings may be combined to form a single dwelling as long as they are designed to function together for that purpose.

As a result:

- The construction of dwellings formed from more than one building can be eligible for zero rating.
- The reduced 5% rate of VAT can apply to conversion of premises consisting of more than one building into a dwelling (e.g. where they are converted to a different residential use).

In order to be eligible for zero rating buildings must:

- Meet the usual conditions to be a 'building designed as a dwelling'.
- Be constructed or converted under a single project and single consent.

If a new dwelling made up of more than one building is constructed in stages, HMRC will view the subsequent stages as annexes which will not be zero rated unless:

- The buildings are on the same site;
- The stages are completed with no unreasonable delay between them; and
- None of the buildings are occupied until all the stages are complete.

Anyone who has previously constructed or converted eligible buildings into dwellings consisting of more than one building but didn't treat this as zero rated can submit claims for overpaid VAT with retrospective effect up to 23 August 2020. ■

“Making Tax Digital”

You will soon be sick to the back teeth of this strap line but it will become increasingly important. The Government has announced six consultations on various aspects of their programme to make all tax digital by 2020. It is justified saying that the move will ‘cut red tape’ but it will be a huge change for many small businesses and will require considerable input of time and energy to prepare.

The first concession in the road to a digital future was announced with the consultative documents when it was announced that businesses with an annual income below £10,000 will not be affected. This does nothing for construction except illustrate that all businesses will be involved. We have so few businesses with a turnover below this threshold. Next month’s Newsline will have a summary of the consultations and a questionnaire for your views.

As part of your education as to what will be involved, go online and search for 1Tap Receipts or download an app by typing `get.1Tap.io/9n8w` on your mobile phone. You will be amazed what accounting technology is available.

HMRC are intending that all tax records and accounts will be online by 2019 for unincorporated traders and 2020 for all companies however small. At that point all tax and accounting records including receipts will be returned and available to them quarterly. ■

National Insurance numbers with a ‘KC’ prefix

A small number of these have been issued recently and can cause trouble with employers.

- They are valid: individuals receiving them should use them as normal.
- If you are experiencing problems submitting RTI information for an employee with this code leave the National Insurance number field blank and make sure the employee address field is complete. ■

NIC contributions for employees over the State Pension age

- Once an employee has reached the State Pension age they don’t have to pay employee’s NICs.
- They should be moved to NICs category letter C.
- Employers must continue to pay Class I NICs for these employees ■

**If you have a query regarding any of the items featured in this issue of newsline please contact Liz Bridge.
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