

TAX BULLETIN: UK CHANGES EFFECTIVE FROM 6 APRIL 2014

This is addressed to you personally, as a UK resident contractor ...

From press coverage and conversations with others, you are doubtless aware of changes in UK legislation that are about to significantly affect the tax and social security environment for UK resident offshore contractors like yourself, with effect from 6 April 2014 at the start of the new UK tax year.

Onshore and offshore intermediaries

Subserv Pro Limited [SSP] acts as agent for offshore employer Subserv Pro (Guernsey) Ltd [SSP(G)]. In the chain of hire of labour to clients of SSP, SSP is regarded as an *onshore intermediary*, while SSP(G) is regarded as an *offshore intermediary*. SSP's client is regarded as a *hirer*; you are regarded as a *worker*.

A long established principle¹ means that for mariners employed by an offshore company, there is no Employer's National Insurance (NI) liability. This position has been actively encouraged by the UK Government to support the UK maritime industry in a competitive international marketplace.

Unfortunately this offshore employer mechanism has been abused by other categories of worker - such as IT consultants, teachers and nurses - having no rationale for offshore employment other than to exploit what has become an NI loophole. Furthermore, coupled with questionable self-employed status this has also become a tax loophole.

Agency legislation

In parallel with a crackdown on offshore intermediaries, we are seeing a crackdown on onshore intermediaries. This is largely about the concept of false self-employment. Essentially, if the worker is not genuinely in business on his own account and works under the supervision, direction or control of the hirer then the agency legislation² applies and the worker is treated as holding an employment with the agency. Employment income rules apply, PAYE must be operated and Class 1 NI contributions (NIC) deducted.

Inevitably, we are affected by both the offshore and the onshore implications.

Gross-paid contractors

Firstly, let's look at gross-paid contractors through SSP(G). Gross-paid implies self-employment. However, the circumstances under which you typically work would render this as false self-employment on applying the supervision, direction and control rules. SSP(G) advise us that, in future, they must operate PAYE; NIC or the foreign equivalent may be deducted, where applicable.

Umbrella company contractors

An umbrella company arrangement where PAYE and NIC is operated is OK, as it will fall outside the agency legislation. SSP will need to establish the PAYE credentials of the arrangement relative to the individual concerned, in order to continue to enter into an agreement with such 'employed' PAYE umbrella company contractors.

¹ HMRC Tax Bulletin 49, October 2000

² under the Income Tax (Earnings and Pensions) Act 2003 and the Social Security (Categorisation of Earners) Regulations 1978

Limited company contractors

Similarly, a limited company where PAYE and NIC is operated is OK, as it will fall outside the agency legislation. Again, SSP will need to establish that the company operates a PAYE payroll relative to the individual concerned, in order to continue to enter into an agreement with such 'employed' limited company contractors.

National insurance

The NI rules for mariners engaged through SSP(G) are determined by the vessel flag. UK Employee NI contributions therefore apply only on UK flag vessels. We are advised by SSP(G) that your UK PAYE payslip will show UK income tax deductions but no Employee NI deductions unless you are on a UK vessel.

Income tax liability by place of work

On the basis of your residence in the UK, we understand that you are liable for UK income tax on your worldwide income. On some foreign placements (e.g. Norway, oil and gas), there is an income tax liability also to that foreign jurisdiction. Such placements will only be handled on a PAYE-basis (not umbrella or limited company) so that SSP(G) can ensure double taxation avoidance on your behalf, through their arrangement with UK HMRC.

Implications to you personally ...

Gross-paid contractor

If you are currently engaged by SSP(G) under a gross-paid agreement, there is now a legal requirement to operate PAYE and NIC. With effect from your first payment after 6 April 2014, we are advised that SSP(G) will operate PAYE. Any subsequent engagement will be under a PAYE agreement.

Umbrella company contractor

If you are currently engaged by SSP under an umbrella agreement, then we are checking this out on your behalf and will let you know the outcome.

Limited company contractor

If you are currently engaged by SSP under a limited company agreement, then again we are checking this out with you directly.

SUBSERV PRO LIMITED - YOUR AGENCY OF CHOICE

Subserv Pro Limited continue to have your best interests at heart. We endeavour to find you the best work placements and, as you see here, you can be confident that SSP(G) will take care of your tax liability. We look forward to continuing to look after you and to providing you with that essential peace of mind that your tax liabilities are properly recognized and effectively discharged. HMRC will then not come knocking on your door.

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