

Please Note: This communication is for informative purposes and may not affect you



Dear all,

Following on from previous communications to you, we want to let you know that **umbrella companies are coming under increasing levels of scrutiny from HMRC.**

Many umbrella companies are absolutely fine but unfortunately a few are operating illegally.

This issue is very real and current as we are aware that in the last few weeks some contractors using umbrella companies with **loan schemes** have received **letters from HMRC requesting payment of significant amounts of unpaid tax.**

Some umbrella companies offer schemes whereby tax or national insurance is saved by paying employees partly **via loans**. In a contractor loans scheme, you're paid in the form of a loan from a trust or company, sometimes referred to as a remuneration trust. You don't get your payment (or 'loan') directly from the company you're providing work for because it's diverted through a chain of companies, trusts or partnerships. The companies that promote these schemes will tell you this will save you tax. These arrangements can fall foul of the Disguised Remuneration rules. HMRC are taking a very aggressive stance on this type of scheme – please see attached link: [Click here](#)

We want to make sure that you are aware of the **risks** when considering your preferred method of payment. You may also be approached by other agencies offering to treat you as outside IR35 without reference to the end NHS client, or who advocate the use of an umbrella company operating illegally. These may sound tempting in the short-term, but **if you enter into a tax avoidance scheme the risks to you are considerable** – this includes assessments for unpaid tax, investigation into previous tax affairs, financial penalties, interest and possibly criminal charges.

In addition, HMRC may also:

- **Require you to pay the tax you're trying to avoid upfront, meaning:** You may receive a tax bill called an [accelerated payment notice](#). This is a requirement to pay the full amount of tax or National Insurance contributions HMRC calculates as being

due, upfront and within 90 days. In some cases, contractors have received tax and / or NI bills above £28,000.

- **Take legal action, meaning:** You may end up in court if you don't pay the tax and National Insurance contributions you owe. HMRC wins around 8 out of 10 avoidance cases heard in court. If you lose you could face life-changing bills, with legal costs on top of the tax you owe, penalties and growing interest
- **Treat you as a high-risk tax payer, meaning:** This means HMRC will closely scrutinise all of your tax affairs in future, not just your use of the avoidance scheme
- **Mortgage providers and other creditors may be contacted, meaning:** HMRC will ask to see information you provided to your mortgage provider and other creditors. If the income on your tax return is lower than the income on your mortgage application, HMRC may charge you penalties and interest as well as the additional tax you should have paid.

Other flawed umbrella company offerings include direct gross payments to a worker's PSC '**outside IR35**' status without referring to the end client. This is in direct conflict with the new legislation, which makes it the end client's decision in the public sector. In the event of an investigation these fee payments to umbrella companies would count for nothing and HMRC can look back to previous years to recover more unpaid tax and penalties. Any umbrella company using a solution where funds are moved outside of the UK ('**offshore**') should be avoided at all costs.

We want you to have the peace of mind of being safe and compliant and therefore urge you to make sure you understand exactly how an umbrella company will calculate and make payments to you.

As further evidence of HMRC's determination to eliminate tax avoidance, the **Criminal Finances Act is due to become law from 30 September 2017.**

This new legislation will make agencies criminally liable if they fail to prevent tax evasion by either a member of their staff or an external agent, even where the business was not involved in the act or was unaware of it.

A prosecution could lead to both a **conviction and unlimited penalties.**

We are dependent on the umbrella companies we work with to making the correct deductions for tax and national insurance.

We, like other recruitment agencies, have a duty to check as to whether the umbrella companies are making the necessary deductions required by law.

If we identify that tax and national insurance is not being deducted correctly by an umbrella company then we will advise you accordingly.

Other reputable agencies in our market will be taking a similar approach as we are all operating within the same legislation.

There may be some less compliant agencies prepared to take a risk in the short term, but **a prison sentence and unlimited financial penalties should be a sufficient deterrent to most!**

At Your World, we have a list of umbrella providers that give us and you assurances that they are operating correctly within the law. They can be found here: [Click here](#)

If you would like to discuss any of the above or have any concerns or questions arising from this, please contact candidateservices@ywrec.com