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## Nasa Consulting Industry Update August 2008

### Umbrella misuse of expense dispensations and the subsequent Treasury investigation

*In this month's industry update we summarise the HM Treasury consultation into the validity of claiming travel expenses through an umbrella company. This has been an anticipated move by the government from which the recruitment industry will undoubtedly feel the repercussions.*

Contractors working through umbrellas do so under 'overarching contracts of employment' and as such can claim tax relief on certain expenses incurred.

The main issues the Treasury have are that many contractors working on overarching contracts are encouraged to claim expenses that they have not incurred by their umbrella company. This widespread misuse of expense dispensations by some umbrella companies is what has brought about a perceived tax loss to the exchequer and the subsequent investigation.

The Treasury has announced three policy options in the consultation. We have outlined these for you below and given a quick summary as to how this may affect recruiters:

**Option 1**                      **Introducing a debt transfer provision (similar to the MSC legislation) to stop umbrellas/employment agencies from abusing expense dispensations.**

**What does this mean?**      By introducing a debt transfer provision to deter umbrellas from misusing their expense dispensations, we should see blanket compliance as with the MSC legislation. Recruiters would simply need to not engage in contracts with umbrellas offering a dispensation in order to protect themselves. As such, additional due diligence may be necessary, for example, in the form of a compliance questionnaire.

## Option 2

### **Introduce legislation to remove travel expenses specifically from umbrellas/employment agencies.**

#### **What does this mean?**

This would remove the benefit of using an umbrella and make them non-viable. Agency costs may increase as all temporary workers not through a PSC would need to be payrolled internally or via an outsourced payroll company. Added employment concerns may also arise for agencies (SSP, Holiday Pay, and Employment Rights etc). This may deter individuals from entering the temporary market.

## Option 3

### **Allow the current arrangements to continue unaltered.**

#### **What does this mean?**

The situation would remain unchanged so no risk will fall upon agencies when entering into a contract with an umbrella company.

The consultation is due to close in October 2008, and it would be safe to expect some form of announcement in this years Pre-Budget Report, or at the latest, by the Budget in March 2009.

Whichever option the Treasury implements, recruiters can continue to engage umbrella companies in the meantime. If legislation is brought in as per Option 2 that removes the benefit of expenses for umbrella contractors, there will be drastic changes to the temporary labour market that will affect contractors and recruiters alike.

If a Debt Transfer provision is implemented then recruiters may be at financial risk if engaging umbrella companies that get caught flaunting the expense rules. This would however, see more competition in the market place as service cost and efficiency would become the main USPs for umbrellas, not artificially inflated take home pay as it is now.

Nasa Consulting will of course be involved in the consultation process with HM Treasury, trying to ensure the best deal for all of our clients. We will also continue to follow HMRC Guidance with regard to claiming receipted expenses for our contractors. Should you wish to discuss this in more detail please don't hesitate to contact us. The full consultation document can be found [here](#).



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