



accounting for success



## Legal Update – October 2007

### Why Agencies can't be caught by Debt Transfer provisions

HMRC have released a short update on their website attempting to provide further clarification for the recruitment industry regarding the recent MSC Legislation. Although just an update at this stage, further clarification has been promised in November to provide guidance on how recruitment agencies may mitigate their risk when using Preferred Supplier Lists (PSL's).

Two main areas that were covered by the update are;

#### Non-application of debt transfer to Employment Businesses

Some very positive news can be found in the guidance released by HMRC this month. It provides some much needed clarification for Recruitment Agencies about when they engage new contractors and the application of the debt transfer regulations.

If a contractor approaches an agency and they already have a limited company set up, the agency will not be able to be held liable under the debt transfer provisions, even if the contractor is deemed to be an MSC at any point in future. As the contractor set up the company without any influence from the agency, debt transfer cannot apply.

This is of course great news as it allows agencies to continue to engage those contractors who have a limited company without fear of debt transfer risk in future. As limited company contractors stay in the market for longer, it will allow agencies to protect the better margins on offer from these contractors. It will also mean that it is no longer necessary to quiz new contractors on their corporate structures before signing a contract with them.

Again HMRC have said that further guidance will be released in November and we will update you on any developments. The theme of this guidance will be on how to mitigate risk in recommending through Preferred Supplier List's.

HMRC have always stated that the intention of the MSC Legislation is not to stop recruiters using PSL's. As long as you don't recommend just one company, rather you recommend a 'panel' of umbrella companies and accountants you will not be subject to any debt transfer risk in future whether your contractors use a limited company or an umbrella company.

[www.nasaconsulting.com](http://www.nasaconsulting.com)

Nasa Consulting Limited, Fenton Court, Fenton Road, Bristol BS7 8ND  
Registered in England & Wales 05764568 VAT Reg 879 3336 76



accounting for success



## MSC Audit Standard

Much has been postured in the press about a possible accreditation scheme for service providers of both umbrella companies and accountancy services. HMRC have clarified in their update that there are no plans for any type of accreditation scheme.

Alternatively, they are in the very early stages of investigating a possible Audit Standard for service providers. The aim here is to provide certainty for Recruitment Businesses so they know if they are dealing with an MSC or not, and provide clarity for potential debt transfer implications. It also aims to assure contractors that the company providing them with umbrella or accountancy services is not an MSC Provider, thus they cannot therefore be an MSC themselves.

The intricacies of this proposal are that an audit standard will be available on HMRC's website where a suitably qualified professional would review the service provider's business model. It has been mooted that the audit standard will be devised by one of the 'big 4' accountancy firms. If the audit standard is passed, the service provider would be free to state this publicly on literature and their website.

It remains to be seen whether or not this standard will materialise, and HMRC have stressed heavily that it is at a very early stage of consultation. As soon as further guidance or news is released we will inform all of our clients and agencies that we work with.

The full release can be found on HMRC's website – [www.hmrc.gov.uk](http://www.hmrc.gov.uk). Alternatively, if you would like to discuss any of the topics covered above, or if you are looking to set up a PSL please don't hesitate to contact us here at Nasa Consulting, we will be happy to help.

[www.nasaconsulting.com](http://www.nasaconsulting.com)

Nasa Consulting Limited, Fenton Court, Fenton Road, Bristol BS7 8ND  
Registered in England & Wales 05764568 VAT Reg 879 3336 76