

Managed Service Company Legislation Summary

What is the background?

On 6 April 2007 Chapter 9 Income Tax (Earnings & Pensions) Act 2003, more commonly known as the Managed Service Company (MSC) legislation was introduced. MSC legislation applies to individuals providing their services through intermediaries which meet the definition of a Managed Service Company.

An intermediary must consider whether the MSC legislation applies before considering IR35. Intermediaries that do not meet the definition of an MSC must continue to consider IR35.

What does it do?

MSC legislation works parallel to IR35 legislation, creating a tax charge on income that derives from an employment. This new legislation replaces IR35 for the earnings of workers who provide their services via MSC's.

What are the definitions of a Managed Service Company?

The definitions of an MSC are as follows:

- ▲ A company whose business consists wholly or mainly of providing the services of an individual to third party clients;
- ▲ The worker providing the services receives payments (including benefits) equal to the greater part of the consideration for the services he has provided;
- ▲ The amount of the payments are greater than the worker would have received as an employee of the service company, and
- ▲ An MSC Provider is “involved” with the company.

What is a Managed Service Company?

An MSC is typically controlled by an organisation known as a Managed Company Service Provider (MSCP). In simple terms, a business structure set up by third parties (e.g. Composite companies) or independent Limited companies who allow their corporate and financial responsibilities (e.g. control of business bank account) to be managed by third parties, will be caught by the new legislation.

In cases where an MSCP is “involved”, full PAYE tax charges will be levied on all earnings paid out.

To be safely outside of MSC legislation and not therefore classed as a Managed Service Company, a Limited company must be able to demonstrate that their Directors have full

control of the business direction of the company and must have complete responsibility/ownership of its corporate and financial management.

Are there any exemptions?

MSC legislation is not intended to target small independent companies. If a contractor genuinely owns and manages a Limited company (as detailed above) they will not be affected.

MSC legislation does not target Umbrella companies because all income is already subject to full PAYE and NI contributions before it is paid out to workers.

Independent Accountants are not caught by the “involved” definition and can provide core accountancy and tax services to limited companies without falling foul of the new legislation.

How do I avoid the Managed Service Company Provider risk?

Contractors need to be careful, as there are many businesses out there who claim to provide ‘Accountancy Services’ in an effort to hide their past activities and avoid MSC legislation.

For contractors to avoid the implications of MSC legislation they should ensure that they only engage professionally qualified accountancy firms to support their business needs. The following questions can help determine the credibility of an accountancy business:

- ▲ How long have you been in business as an accountancy practice?
- ▲ What are the chartered qualifications of your firm?
- ▲ How many of your team members have accountancy qualifications?
- ▲ What service did you provide pre MSC legislation?

Summary

MSC legislation is complicated and must be thoroughly considered before any important decisions are made. These notes are designed to provide summary information only and further advice can be sought by speaking to a qualified Champion advisor.

Call 0845 313 2760 or 0161 703 2549 today to discuss your needs.

