DOES YOUR EXISTING PROVIDER(S) OFFER TAILORED ADVICE?

MANAGED SERVICE COMPANY (Clarification)

The following articles of government legislation (Page 2) demonstrate a common theme throughout which raises the question of who is likely to be an MSC and who isn't.

You will quickly notice that the provision of [**Specific Individual Tailored Advice**] of an independant nature that offers a recommendation(s) for various non-standard products. This will typically set aside any organisation by either having a '**influences**' or being '**actively involved**' in an incorporated company (PSC) and as such; will **NOT** constitue a provider being an MSC.

To set us above the others, RACS Group offers the following compliance pointers to every contractor that joins our service(s) **BEFORE** any application is processed. We offer:

- A One to One telephone conversation with each Contractor.
- Completeion of a specific 'Best Advice Matrix' that prompts a number of pre-determined personal and professional questions about the Contractor and Contract respectively.
- An independent Advice and Recommendation letter generated from the answers given (as in the above point) – allowing us to select from an industry generic product range of; PAYE, Umbrella, Own Limited(PSC), CIS or indeed total rejection where appropriate.
- A personal illustration based on this specific recommendation(s).
- A 'Duty of Care' towards each contractor with an introduction to various 3rd party qualified professionals for higher level taxation, IR35 and contract advice.
- Multiple options for all Own Limited (PSC) contractors that gives varied choice for all things to do with running their own limited company including:
  - Payroll Frequency – CHOICE!
  - Payroll structure (Salary & Dividends, Salary Only, etc) – CHOICE!
  - Salary Levels – CHOICE!
  - Dividend Frequency (Monthly, Quarterley, Annually, etc) – CHOICE!
  - Invoicing Assistance (Raising & Chasing) – CHOICE!
  - Factoring Assistance – CHOICE!
  - Accountancy Services and HMRC Registrations – CHOICE!
  - Help with Annual Return services – CHOICE!
  - Group Insurance Services – CHOICE!

Please note that our services have been designed inconjunction with HMRC legislation and where applicable, rigourous independent audit standards. If your current provider doesn't offer a 'Best Advice Tailored Solution' then surely by contradiction they must offer a 'non-advised', 'set', 'standardised' product?

The following extracts (below) are taken from government sources:

(i) HMRC: MSC Guidance on Chapter 9 & s688A: July 07

(i) Managed Service Companies - GUIDANCE – On Chapter 9, Part 2 and Section 688A, Part 11 income Tax (Earnings and Pensions) Act 2003

Meaning of "influences"
In this context "influences" does not mean the provision of advice**.** The Financial Secretary to the Treasury said in Parliament on 15 May 2007: "there is a distinct difference…..between a person who provides independent, tailored advice to a client, who is then able to consider that advice before accepting it or rejecting it, and the person who simply supplies a client with a standard solution or product that the client accepts."

The fact that an adviser advises a client to incorporate does not in itself constitute "influences". The advice to incorporate needs to be considered in the wider context of the advice to the client i.e. whether it comprises part of truly tailored advice or in reality constitutes part of a standard product.

What services are considered to comprise being involved (*NOTE* the word 'INVOLVED' has been amended to 'ACTIVELY INVOLVED' in later documentation) and which are not.

In many cases it is not a simple matter of saying whether a particular service constitutes being involved; rather it is necessary to look at the circumstances, in totality, under which a service is provided. For example, setting up a company for a client as part of a tailored advice would not constitute being involved. However, if the setting up of a company was simply part of a standard non-tailored product then it is highly likely that setting up a company would constitute being involved.
Indicators *of services that would generally* ***not*** *constitute being involved:*

- **Managing company formation and set up**
  If such an activity is undertaken at the request of the client following receipt of tailored advice and is not as part of a standardised product then it does not constitute being involved.

- **Acting as the client company's Registered Office**
  If this is done at the request of the client following receipt of tailored advice and is not as part of a standardised product then it does not constitute being involved.

- **Registering companies for VAT, CT and PAYE**
  This is an administration function and does not constitute being involved.

- **Preparing VAT, CT and PAYE returns.**
  If such activities are undertaken at the request of the client following receipt of tailored advice and are not as part of a standardised product then they do not constitute being involved.

- **Providing advice on whether Chapter 8 ITEPA (IR35) applies to a particular engagement.**
  Such advice does not constitute being involved where:

  - The Service Provider has had no involvement whatsoever, directly or indirectly, in the engagement contract with any of the parties in the contractual chain; and
  - There is verifiable evidence that the Service Provider, in addition to considering the engagement contract ,considers fully the actual terms and conditions under which the client is engaged: and
  - There is verifiable evidence that the Service Provider has challenged inconsistencies in information provided by any party; and
  - The Service Provider extends full co-operation to HMRC when so requested in order to determine the accuracy of the Provider's processes,

- **Advising on a remuneration package**
  Providing advice to a client does not constitute being involved. But HMRC will consider very carefully whether advice given constitutes genuine tailored advice or in effect constitutes a standardised product. In determining the nature of such advice, HMRC will consider all factors including the nature of advice given to other clients.

- **Advising on expense claims**
  Providing advice to a client does not constitute being involved. But HMRC will consider very carefully whether advice given constitutes genuine tailored advice or in effect constitutes a standardised product. In determining the nature of such advice, HMRC will consider all factors including the nature of advice given to other clients.

- **Preparing invoices**
  If invoices are prepared at the request of the client following receipt of tailored advice, and relates to services over which the MSC Provider has neither influence nor control, and are not prepared as part of a standardised product, then they do not constitute being involved.

- **Submitting invoices to clients of a company**
  See above comments.

- **Operating a payroll**
  If the payroll is operated based on employment income figures notified by the client following receipt of tailored advice and is not as part of a standardised income routing product, then it does not constitute being involved.

- **Preparing weekly/monthly payslips and producing employers' payroll returns, such as P35 & P11Ds**
  See above comments.

- **Preparing management accounts and financial statements**
  These activities, if provided as part of a tailored service to the client, do not constitute being involved.

- **Providing support on secretarial matters, such as drafting of minutes and preparing annual returns**
  These activities, if provided as part of a tailored service to the client, and undertaken on the instructions of the client, do not constitute being involved.

- **Providing group insurances** (including employers and public liability)
  The provision or promotion of insurance services, except for insurance to make good a tax loss, does not constitute being involved.

RACS Group feels that enforcement of these standards are only a matter of time by HMRC as indicated. You can see that we already have them in place and you should be encoraging your exisiting provider(s) to do the same irrespective of product offering.

For further help and asstance or if you require a more indepth bespoke discussion, please feel free to contact us on: **Tel: 0845 604 0571** **Fax: 0845 604 0573** **Email: info:racsgroup.com** or visit our website at: **www.racsgroup.com**