

Taken from HMRC guidance notes

Summary of the disclosure rules - Income Tax, Corporation Tax and Capital Gains Tax

The disclosure regime was introduced with effect from 1 August 2004 and was limited in scope to tax arrangements concerning employment or certain financial products. This was widened with effect from 1 August 2006 to the whole of Income Tax, Corporation Tax and Capital Gains Tax.

A tax arrangement **must be disclosed** when:

1. it will, or might be expected to, **enable any person to obtain a tax advantage**
2. that tax advantage is, or might be expected to be, the main benefit or one of the main benefits of the arrangement, and
3. it is a tax arrangement that falls within any description ('hallmarks') prescribed in the relevant regulations.

In most situations where a disclosure is required **it must be made by the scheme “promoter”** within 5 days of it being made available. However, the scheme user may need to make the disclosure where:

4. **the promoter is based outside the UK**
5. the promoter is a lawyer and legal privilege applies, or
6. there is no promoter.....

A large recruiter amongst many we deal with has given us this reason why they will **NOT** use Off-Shore Providers:

“We have specific criteria that we apply to the use by contractors of offshore payment vehicles.

It is hard to imagine why a UK resident contractor working in the UK would use an offshore payment vehicle (Point 4 Above HMRC) unless it was for the purposes of avoiding UK Tax and NIC (Point 1 above HMRC).

It has been widely publicised that HMRC are targeting offshore tax havens (listed above and many other documents – see below) and while we are not here to do HMRC’s job for them we are not going to do anything that could cause us embarrassment or worse if HMRC were to inspect our records and ask why we are paying a UK contractor through an offshore company.

In order to protect ourselves as best we can from falling foul of the MSC legislation or any other rules HMRC dream up we take all reasonable steps to try to ensure that we only pay contractors working in the UK through their UK Personal Service Companies, UK PAYE Umbrella Companies or UK PAYE through our own payroll”.

List of Off-Shore Tax Avoidance Notes (HMRC)

- <http://www.hmrc.gov.uk/aiu/summary-disclosure-rules.htm>
- <http://www.hmrc.gov.uk/ria/disclosure-guidance.pdf>
- <http://www.hmrc.gov.uk/aiu/avoidance-scheme.pdf>