Umbrella companies

Employment Tax

08 June 2021

There has been a flurry of activity over umbrella companies during the past few months, including the release of LITRG's own research report. Here we give you a quick round up.

LITRG have recently released a research report (www.litrg.org.uk/ref2434) entitled 'Labour Market Intermediaries: a technical report outlining how umbrella companies and other intermediaries operate in the labour market and the implications for workers who use them'.

The report is an independent and objective report that seeks to draw together evidence from a range of sources, to help form an overall picture of the current umbrella marketplace. We wanted to contribute some facts and figures to the debate about umbrella companies – something over and above mere opinion or conjecture. The report not only looks at the complexities surrounding umbrella companies (including evidence of bad practice) but also looks at how compliant umbrella companies operate.

The report contains a discussion of disguised remuneration arrangements, such as loan schemes in which contractors and agency workers may become entangled. It is becoming increasingly clear that some workers were put into such schemes by the umbrella companies they were working through, without their full knowledge or understanding – often they had no understanding at all of the set-up. We reflected on our findings in an article written for AccountingWeb entitled 'LITRG report sheds new light on disguised remuneration saga' (tinyurl.com/3482xwh8).

A few weeks later, the Loan Charge All Party Parliamentary Group (APPG) issued a report (tinyurl.com/jmz6cnnm) on their inquiry into 'How contracting should work', which covers much the same ground as the LITRG 'umbrella' report.

Although both reports were written entirely separately, it is interesting that both shine a light on the often remarkably opaque supply chain. Both reports also

highlight potential issues relating to referral payments between umbrella companies and agencies, and comment on the extent to which this may have driven the operation of disguised remuneration schemes.
The APPG have used their report to support regulation of umbrella companies. Indeed, Ruth Cadbury MP, co-chair of the APPG, tried to get legislative changes during the course of the Finance (No 2) Bill 2021, to tackle some of the issues with umbrella companies and made various speeches including in the Second Reading (tinyurl.com/f2474frb) debate and at Committee stage.

LITRG used the passage of the Finance Bill to raise concerns about umbrella companies, via a briefing on clauses 117 and 119 (www.litrg.org.uk/ref2451) (which widen and strengthen HMRC's ability to sanction people for promoting or enabling certain forms of tax avoidance). The LITRG briefing focused on the nature of the disguised remuneration 'problem' shifting from being one mainly about people 'being in the market' for tax avoidance to something more complex about the exploitation of the economics of supply chains and the nature and scale of the temporary worker labour market.

We said that, assuming the nature of the problem has indeed shifted, alternative strategies should be explored by HMRC, beyond narrowly focusing on the promoters. There are other entities in the supply chain that have a role and some responsibility that HMRC could focus on (for example, umbrella companies which, as the employing entity, have a responsibility for operating PAYE correctly), which would be potentially quicker, easier and more effective at clamping down on the problem.

Although there seems to be a definite head of steam building up around umbrellas, it's hard to predict what will happen next. In the longer term, we may see more interest and discussion about possible regulation in this area. In the shorter term, one tangible, very welcome, result is that we have been working with HMRC on some GOV.UK guidance (tinyurl.com/38vjac7f) around umbrella companies for agency workers and contractors. Although we would still like to see further additions and improvements to the guidance, it is a small step in the right direction.