Umbrella company market update

Employment Tax



17 May 2024

Although we are waiting for a substantive response to the umbrella company consultation, progress to tackle non-compliance in the market is still being made. If you have any contractor clients or advise/assist businesses in the recruitment sector, this round up is for you.

The consultation on tackling non-compliance in the umbrella company market, which both the CIOT and LITRG responded to (see tinyurl.com/p9ankcs8), closed in August 2023.

Since then, we have seen the release of the Director of Labour Market Enforcement's 2023/24 strategy in October 2023 (tinyurl.com/4unb9y2e). Concerns around umbrella companies featured heavily in the evidence submitted (which included LITRG's), as did the 'new and emerging use of joint employment models'.

Because of the wider work going on around umbrellas, the Director made no specific recommendations on the issue of umbrellas in the strategy. However, she did highlight the enforcement gaps around umbrellas which remain outstanding given

the lack of progress in establishing a single enforcement body. She also made a welcome commitment to explore how and whether some of the ambitions of the single enforcement body could be delivered by the existing enforcement bodies or the DLME office and others. In addition, a statement from the Employment Agency Standards Inspectorate setting out their views of the joint employment model has been published on GOV.UK (tinyurl.com/3jax8d8w).

In December 2023, HMRC launched new guidance aimed at helping agencies that hand workers over to umbrella companies understand their legal responsibilities and keep their supply chain compliant. The guidance called 'Responsibilities for employment businesses working with umbrella companies' shines a light on the different relationships and obligations that exist between agencies and umbrella companies. This guidance for agencies, which covers things like pay rate transparency and 'kickbacks', may also help workers to better navigate through the world of umbrella working.

In addition, HMRC have refreshed the page of guidance for workers. It now contains some important – and very welcome – messages about how workers can protect themselves from the actions of fraudulent umbrella companies. See 'Ways to protect yourself' towards the end of the GOV.UK page (tinyurl.com/mr3vexd5).

On 6 March 2024, in the Spring Budget, there was an announcement (at para 5.42) that HMRC would provide an update on the recent consultation on tackling non-compliance in the umbrella company market at April's tax and maintenance day. Although the announcement did not go any further than that, many people took it as meaning that HMRC would provide a summary of responses or their own response to the consultation. Instead, at tax and maintenance day, we got a three paragraph 'holding' note (tinyurl.com/4fdeb688).

Although undoubtedly slightly disappointing, this did reaffirm the government's commitment to the sector, confirm that HMRC are developing an online pay checking tool and hint that mandatory due diligence will ultimately be rolled out to help clamp down on tax non-compliance.

While the consultation process here was always going to be long and complex, we hope it will not be much longer before HMRC and the Department for Business and Trade bring forward some firm plans to tackle non-compliant practices. In the meantime, it is important for those who rely on umbrella companies to remain alert.

To this end, we have recently refreshed our umbrella company guidance and factsheet, to bring it all up to date for 2024/25 and to reflect, as far as possible, the key things to watch out for. See the LITRG website: tinyurl.com/ydsrx226.

Meredith McCammond *mmccamond@litrg.org.uk*