



HM Revenue
& Customs

Tax Fraud and Avoidance

Risk update 1

Please make sure your NHS trust isn't part of tax avoidance or a fraudulent labour supply chain

This is a tax fraud and avoidance risk update from HMRC. Please share it with everyone in your organisation who you think needs to see it.

We're writing to the people in NHS trusts who arrange or pay for staff through employment intermediaries such as employment agencies. We want to warn you about the risk of significant tax fraud and avoidance within your labour supply chains.

The risk

There are organised criminal groups and promoters of tax avoidance exploiting the supply of labour to the NHS and others. As a result:

- large amounts of taxes aren't paid
- workers aren't paying the correct taxes
- workers aren't getting benefits like holiday and sick pay
- there are potential legal, financial, and reputational risks to the NHS.

To reduce the risk of engaging workers through fraudulent or avoidance driven supply chains, you need to have:

- robust due diligence processes and checks in place and review them regularly
- a record of any due diligence checks you've done.

Non-compliant models identified in NHS labour supply chains

From intelligence we've received and our own compliance activity we know of risks involving labour supply chains where the NHS is the end user of that labour supply:

- **Workers supplied to the NHS through recruitment or employment agencies** – we often find other employment intermediaries within labour supply chains between the agency and the worker. These intermediaries are often referred to as Umbrella Companies and are responsible for engaging the workers and doing the payroll.

Some models are simply fraudulent in that it is claimed the right tax is deducted but it is not, some use disguised remuneration tax arrangements to artificially reduce the correct amount of tax owed. Both mean they don't pay HMRC the right amount of tax.

- **Workers supplied to the NHS by recruitment agencies but engaged through the worker's own Personal Service Company (PSC)** – we sometimes find other employment intermediaries between the recruitment agency and the PSC. This creates long or complex supply chains.

When this happens, it can be difficult to know the actual structure the worker is working through and if the Off-Payroll working rules (IR35) should apply. In some cases, false payslips and PAYE Real-Time Information Returns are given by the intermediaries to others in the labour supply chain. This is done to hide the true engagement model and wrongly demonstrate that the Off-Payroll working rules do not need to be considered.

In other cases, confirmation may be wrongly given that there are no PSCs in the labour supply chain.

How to spot and avoid this type of fraud or avoid tax non-compliance in your labour supply chains

Please carry out proper due diligence checks on your supply chains, so you understand:

- what service you're receiving and from whom
- who ultimately pays your workers, and how they pay them.

If you use another business to give you these assurances, you should ensure that these checks are being carried out properly.

The due diligence checks below are not a definitive list but are good practice examples of what you can do to minimise risks in your supply chains

1. Make sure you know the following about your labour suppliers:
 - who they are
 - how they engage the workers they supply to you
 - how they operate PAYE for workers supplied to you
2. Have a clear process for identifying which workers work through their own Personal Service Companies or an intermediary, even where the workers are not supplied directly to you.
3. Find out if your direct labour supplier (the recruitment company) outsources (both):
 - the workers
 - responsibility for paying those workers.

If they do, you need to know which business they outsource to, and:

- why that business is involved
 - if they're paying the taxes due on the workers' earnings or not
 - if they submit quarterly Employment Intermediary Reports to HMRC
 - confirm the recruitment agency has provided the workers with Key Information Documents.
4. Check pay slips and PAYE Real Time Information provided to you carefully. We're aware of false ones being given to third parties to attempt to demonstrate compliance with their tax obligations.

You should ask to see payslips directly from workers, not accept at face value what a recruitment or intermediary gives you.
 5. Check and refresh your due diligence processes regularly. Also check how often your suppliers do this for their suppliers.

What happens next

If we find tax losses within your supply chains, we may write to warn you about what we usually do to recover them. If you don't hear from us, it doesn't mean there's no fraud in your supply chains – you still need to be vigilant.

Later this year, we'll invite you to a webinar that will show you how to reduce the risk of fraud in your supply chains.

In the meantime, if you're concerned about a supplier, or unpaid Income Tax, NICs or VAT, you can either:

- report it to us – go to GOV.UK and search 'report tax fraud' or
- contact HMRC using the following mailbox address – nhs.pbg@hmrc.gov.uk

We'll continue to use our full range of criminal and civil powers to stop fraud and take action against those who break the rules.

More information

For more about:

- supply chain due diligence www.gov.uk/government/publications/use-of-labour-providers
- checking for signs of payroll company fraud – Check for signs of payroll company fraud [GOV.UK](https://www.gov.uk/guidance/checking-for-signs-of-payroll-company-fraud)
- Off-payroll working www.gov.uk/guidance/understanding-off-payroll-working-ir35
- employment businesses working with umbrella companies <https://www.gov.uk/guidance/responsibilities-for-employment-businesses-working-with-umbrella-companies>
- workers who work through an umbrella company www.gov.uk/guidance/working-through-an-umbrella-company
- YouTube video [Umbrella companies: what are the risks to contractors?](https://www.youtube.com/watch?v=Umbrella-companies-what-are-the-risks-to-contractors?)
- Disguised remuneration www.gov.uk/government/collections/tax-avoidance-disguised-remuneration