

THREE REASONS WHY HR SHOULD WORRY WHEN ENGAGING CONTRACTORS OVERSEAS

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HR departments engaging contractors overseas should have tax compliance at the top of their agenda if they want to mitigate the very real risks of prosecution – that's according to 6CATS, the international contractor management company which recently addressed an audience of HR and talent acquisition professionals from the pharmaceutical sector.

The audience, which comprised clients of SEC, the specialist life sciences and IT recruiter, was given an eye-opening run down of the risks associated with engaging contractors at sites outside the UK and highlighted three main areas of concern:

- The Criminal Finances Act – a new piece of legislation which will hold any or all parts of the supply chain – employer, recruitment agency and contractor – criminally liable if they fail to prevent tax evasion – even if they had no knowledge of the evasion. “This is a particularly important point given that contractors are often tempted by umbrella companies that are offering solutions resulting in 90% take home pay – that is never going to be a compliant solution and so it pays to be aware of how your contractor is going to be paid in country”, says Michelle Reilly, CEO of 6CATS.
- Debt Transfer – If a contractor works through a managed services company, they must pay tax and NI as if they were employees in line with Managed Services Company legislation. The debt transfer rules within the legislation could make an employer liable for the unpaid tax and national insurance of a managed service company does not have the cash to meet its liabilities.
- Deemed employment and the reclassification of contract workers - This can be a minefield but in essence, depending on the type of work the contractor does, how much control they have, how much supervision they have and what type of business model they are working through, it could be that they may be viewed as an employee for tax purposes.

“Tax evasion and avoidance have been hot topics in the press recently and the complexities of in country taxation rules coupled with the very real risks of criminal prosecution means things really can't be left to chance – diligence is essential and HR should be checking with their recruitment agencies to ensure that their contractors are working through a compliant solution”, adds Michelle Reilly.

Some of the main issues include Germany's reform of the labour leasing laws which gives greater protection to temporary workers and which reclassifies them as employees after a period of 18 months; The Netherland's 'Chain Law' which makes the end user employer, contractor and agency liable for any unpaid tax or social security contributions and Switzerland's 26 cantons all with different rules, deductions, allowances and levies.

Speaking at the event, Stuart Britton, CEO of SEC Recruitment said : “ Compliance is something that is top of our agenda as a recruitment consultancy but we also recognise that we need to work with other organisations that have the intimate knowledge and best practices internationally which is why working

with 6CATS was a natural fit for us to run this seminar - being able to bring some of our existing customers under one roof to hear such a comprehensive analysis has been extremely valuable.”

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