

The Criminal Finances Act 2017

The Key Changes that Recruitment Agencies and freelance contractors cannot afford to ignore

The Criminal Finance Act came into force in September 2017. It is far reaching and coupled with the new requirement for the Key Information Document it has never been more important to understand each and every link in your supply chain.

Implications for recruitment agencies

The law is relevant whether you are a recruitment agency contracting in the UK or overseas and applies to all partnerships and LLP's. This places a greater emphasis on your supply chain, and places your organisation at odds with the new law if there is any weak links. It could result in criminal sanctions for any recruitment agency directors to be in breach of tough new rules.

A recruitment company, umbrella company or accountancy firm cannot knowingly provide any tax avoidance "products" or services to act as a smoke screen for the purpose of saving on your labour costs and improving the net take home of your contractors.

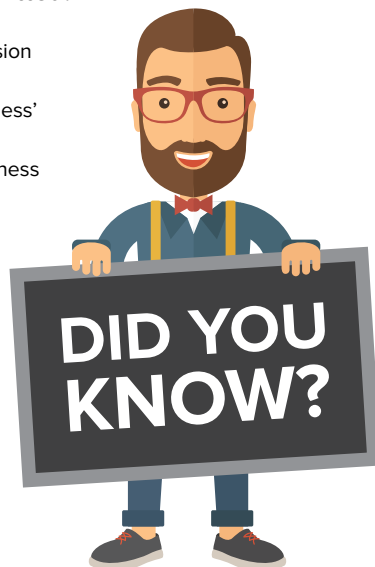
Unscrupulous providers who may be in it for the short term have no concern for the longevity and reputation of you and your business.

So how does this affect you?

What the law states

For an offence to be committed:

- There must be criminal tax evasion under either UK or foreign law
- It must be enabled by the business' employee, agent or anyone performing services to the business
- The business must have failed to prevent that person from enabling the crime



The offence itself will have three stages:

STAGE ONE

Criminal tax evasion by a taxpayer. This could be the offence of cheating the public revenue or fraudulently evading the liability to pay VAT.

STAGE TWO

Criminal facilitation of this offence by a person acting on behalf of the corporation, whether by taking steps with a view to; being knowingly concerned in; or aiding, abetting, counselling, or procuring the tax evasion by the taxpayer.

STAGE THREE

If there has been a criminal offence at stage 1 and stage 2, a corporation is then liable for having failed to prevent a person associated with it from committing the criminal act at stage 2.

You could be liable if someone associated with your recruitment agency knowingly assists a contractor in evading tax in the UK or overseas. Or if you have any suspicions or know that a contractor is evading tax in some way.

For the avoidance of doubt, ignorance of a law is no defence.

Our Practical advice for recruitment companies

- Read the legislation in full
- Carry out a thorough risk assessment on your internal processes
- Ensure from bottom to top that everyone in your organisation understands the scope and far reaching nature of the legislation
- Check that all of your preferred providers, or indeed any umbrella companies or contractor accountancy providers can prove that they follow compliant professional standards and are not exposing you to the very real risk

Speak to one of our team for further information. We'd love to hear from you!

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