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CONTRACTING MADE EASY

The law requires ‘Contractor Compliance’ to be visible and vigorously applied in every recruitment business

Written in good faith by *Mike Phillips, Marketing Director of ItsInternational – international service provider to TEAM Members* - this special bulletin focuses on criminality and deceit in the world of recruitment. It is purposely provocative to highlight a myriad of unsavoury issues which could critically damage your business.

“From recent meetings and conference calls with international recruiters I admire here in the UK and across Europe, the prime consensus is there are too many rogue management companies and umbrellas continually spinning fictional ‘contractor compliance’ and polluting their marketplace. Fronted by whizzy websites and smooth-talking advisors, these commercial service providers are drawn like magnets to recruiters desiring ‘distance from compliance’, simplicity, low charges and unrealistically-high net retention for their placements.”

Hopefully the following points will reinforce or renew your own pathway to safety and security when striving to profitably placing expatriate or local contractors overseas.

1. *When considering an international management or umbrella company, start by visiting their website to consider their claims.*
 - a. Beware of commercial companies appearing to claim, without reference to pre-set conditions, they fully indemnify recruitment businesses and their clients from any tax compliance liability triggered by their ‘solutions’. There are three obvious reasons why such a commitment is to be treated with ultimate caution – especially as no regulated accountant or lawyer would offer such an assurance without attaching pages of disclaimer:
 - i. If the placement has inadvertently (or even purposely) not followed the ‘solution’, he or she is open to investigation by the local authorities. Criminal proceedings could follow. It is not possible to indemnify against criminal charges in any country.
 - ii. The commitment seemingly discounts any challenges in adapting current ‘solutions’ to unknown future changes in local legislation and practice. This is particularly important where new law is made retrospective and open to fresh (often aggressive) local interpretation.
 - iii. Most countries (the UK being a notable exception) consider it illegal for any unregulated business or individual to give local, definitive, statutory advice.
 - b. There are international umbrellas promising contractors minimum net returns of 85% to 90% of the gross contract rate. Some even claim money sent offshore is not taxable. While simple logic dictates such statements to be contrived, they have not stopped gullible recruiters including those umbrellas in their contract chains. When will those recruiters ever learn: “If it sounds too good to be true, it isn’t true”.
2. *Split-income (by definition, part-declared) schemes still blossom.* They are often nourished by placements putting pressure on unwitting sales consultants. Some recruiters either “turn a blind eye” or naively dismiss any need to understand how those solutions are supposed to meet required compliance standards.



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3. *Contractors logically presume a recruiter's PSL is a selection of international management and umbrella companies properly validated by that recruiter.* That PSL supposedly presents a choice of equals in terms of compliance and service. Having made the selection and started their assignment, the contractor may experience a wide gulf between service promise and delivery. Contractors have become service-savvy and may choose to bite their recruiter who validated that service provider. I know there are always exceptions but in my view a PSL is a copout. It normally encourages the low fee / unrealistically high retention culture. Somehow, real compliance gets lost in the mist of apparent benefits.
4. *Amazingly and despite current bribery and anti-corruption legislation, there are still recruiters with an insatiable appetite for referral payments – especially among those who still believe “all management companies and umbrellas are the same”.* The frequency and value of these payments merit, for some recruiters, the creation of a stand-alone 'profit centre' for the business. Twinning 'kick-backs' with compliance is potentially an extreme risk – rarely for the service provider, always for the recruiter. How does a recruiter justify such commission receipts to a statutory authority during an investigation involving the placement and the commission-paying provider? Furthermore, such payments are made from supposedly competitive fees. This surely impacts on the quality and range of service delivered, potentially lowering the required level of 'placement compliance'.
5. *Recruiters need to understand Chain Law.* It allows tax offices to seek compensation (a kinder word than 'retribution') for contractor non-compliance from any party in the contract chain. The weakest link is always the client in the host country. No proper international service provider ever delivers or facilitates “solutions” without firstly considering placement compliance risks to the client. Recruiters should always check that risk. If things go wrong, at worst the recruiter faces a massive statutory penalty – at best an irreversible loss of reputation. Either way it's bye-bye client.
6. *The International Tax Compliance (Client Notification) Regulations 2016* helps the authorities discover undeclared contract income. *The Criminal Finances Act 2017* exposes directors and shareholders of recruitment businesses to accusations of facilitating tax evasion by placements. *The net is closing in on unprepared recruiters.*
7. *In my view, trade bodies have a fresh, critical responsibility to their members.* Some of these organisations' desire to constantly preach sales-led, global domination must work in parallel with an undiluted duty to powerfully publicise, openly educate and inspire their members to adopt real and practical compliance standards. They must encourage a better balance between sales and compliance – especially as agency directors and shareholders will shortly be directly exposed to compliance issues inadvertently or otherwise triggered by their sales consultants or their placements and their service providers. What a mess for the unprepared. Home country and foreign tax offices are licking their lips. They are going to have a field day!

ItsInternational makes no apologies for making contractor compliance our mantra. If you want to consider how our passion for compliance can support your business, please connect with me - Mike Phillips on +44 (0)20 7477 2660 or at mikep@itsinternational.ltd.uk.

As a reliable and risk-averse provider of fully-compliant 'solutions' for your contractor and interim placements across Europe and other key regions such as Asia Pacific and North America, ItsInternational works closely with locally-regulated service providers and locally-registered employers-of-record to ensure your valuable placements are structured to operate your assignments within the laws of their countries of work. This process is transparently driven



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by our local network in unison with local tax and immigration offices. Our passion for full compliance and your passion for profit-optimisation make a perfect partnership!

As a TEAM Member, if you are either placing or aspiring to place consultants or interims abroad on fixed-term assignments, you can benefit from accessing the TEAM INTERNATIONAL HELPLINE – a free service provided by ItsInternational’s Central London offices exclusively for you.

Either call 0044 (0)20 7477 2660 for your complimentary consultation or email us at TEAM@itsinternational.ltd.uk

For more details, visit <https://www.jobsatteam.com/clients/its-international>

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