

FOCUS ON

Offshore Employers - Oil & Gas Workers working on the UK Continental Shelf

After a period of consultation HM Revenue & Customs (HMRC) introduced new tax rules effective from 6 April 2014 to deal with the avoidance of UK PAYE and National Insurance (NIC) by workers working on the UK Continental Shelf (UKCS).

If you are in the Oil & Gas industry and operate on the UKCS and engage workers for when you do not operate PAYE you need to be aware of these new rules. Also if you supply labour to the oil and gas industry you need to be aware of them.

Under the new rules, UK based associates or branches of offshore employers have become liable to make good any unpaid tax and NICs. Offshore employers who do not have a UK associate or branch can apply for a compliance

certificate. However, if they do not have a certificate, the liability for paying PAYE and NIC on their employees passes to the oil company who has the license. In detail these new rules look as follows:

- Where the offshore employer has an onshore associate company, the associate is responsible for operating PAYE and NIC, including secondary “employer” NIC;
- When there is no onshore associate company, then the licensee of the oil and gas field is made responsible for operating PAYE and NIC, including secondary “employer” NIC;
- A certification system is being introduced, under which the licensee can be exempt, if HMRC issues a certificate showing that the offshore employer is meeting all the PAYE and NIC obligations, including secondary “employer” NIC.

Offshore employers can apply to HMRC for a certificate by writing to the following address:

HMRC
Oil and Gas Certificates Unit
Grayfield House
Bankhead Avenue
Edinburgh
Lothian
Scotland
EH 11 4UY

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Certificates

When HMRC issues a certificate to an offshore employer, it will also issue a certificate to the oil field licensee. As long as that certificate is not withdrawn by HMRC, the licensee is not liable for PAYE and NIC.

HMRC will periodically check that PAYE and NIC is being paid correctly by the offshore employer. The new NIC rules governing employer NIC do not apply where the worker is a mariner or is working on a vessel used wholly or mainly:

- For the transport of supplies
- As a safety vessel
- For laying cables

...But will apply to workers working on board floating, as approved to supply of safety vessels.

Offshore Employment Agencies or Intermediaries

For all workers including those in the oil and gas industry, the PAYE and NIC rules where an agency or UK host business is involved have been made more robust. Compliant UK host businesses who have been deducting PAYE and NIC should notice no change - the idea is to enable HMRC to more easily be able to prove the facts in cases where PAYE and NIC have not been deducted.

The new rules that have been introduced, apply where an employee is employed by or through an offshore agency or any other type of intermediary, such as:

- Where there is a UK agency in the contractual chain, the UK agency is responsible for operating PAYE and NIC;
- If there is more than one UK agency in the contractual chain, the UK agency that contracts with the end client is responsible for operating PAYE and NIC;
- Where there is no UK agency in the contractual chain, the client the employed person works for is responsible for operating PAYE and NIC;

- There is a special rule that applies the secondary NIC obligation to a UK agency that is involved in supplying workers overseas, where the worker is in Class 1 National Insurance when working abroad.

The new legislation also simplifies the agency rules so that a worker is subject to Class 1 NIC and PAYE when they work through an agency and:

- The worker personally provides or is personally involved in the provision of services, to the client; and
- There is a contract between an end-client and an agency under which the services are provided or under which the client provides consideration for the services, and remuneration is receivable by the worker.

The agency worker rule does not apply to those workers where it can be shown that the worker is not subject to the supervision (or the right of supervision) of any person and nor are they subject to the direction or control of any person.

These are clearly significant changes in the rules with which those working in the industry will need to become familiar. We at MHA MacIntyre Hudson have considerable experience in assisting individuals who are engaged or those who are engaging workers in the UK or Continental Shelf.

Contact us

For further information, please contact Chris Blundell:



Chris Blundell
Tax Partner

E: chris.blundell@mhllp.co.uk
T: +44 (0)20 7429 4100



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www.macintyreHUDSON.co.uk

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