

APSCo Update on Legal & Compliance Issues

14 June 2022 **NEW**

HMRC names tax avoidance scheme promoters

In line with the [new legal powers](#) afforded to HMRC for tackling tax avoidance, for the first time - HMRC has published the names of two tax avoidance schemes and the promoters of the schemes.

The law allows HMRC to publish information about tax avoidance schemes, promoters, enablers and suppliers where they have:

- Allocated a Scheme Reference Number (SRN) to the tax avoidance scheme under the [Disclosure of Tax Avoidance Scheme \(DOTAS\)](#) rules;
- Given a stop notice to the promoter telling them to stop promoting the tax avoidance scheme, or where the promoter is the recipient of a monitoring notice, under the [Promoters of Tax Avoidance Schemes \(POTAS\)](#) rules; or
- Issued a penalty to an enabler under the [Enablers of Tax Avoidance \(Enablers\)](#) rules.

If the above conditions have been met, HMRC can publish all or some of the following information relating to the scheme:

- The name and address of the promoter or persons involved in the supply of a scheme.
- Scheme Reference Number (SRN) and the date it was allocated to the scheme.
- The name of the scheme (if applicable).
- Information about the scheme, for example how the scheme claims to operate.
- Any judicial rulings relating to the scheme.
- Confirmation that HMRC may issue Accelerated Payment Notices (APNs) to users of the scheme.
- Statutory Provisions on which the claimed tax advantage is based.
- Any other information HMRC consider appropriate for the purpose of identifying the scheme, promoter. or supplier of the scheme.

There is also no time limit for how long information can remain on [HMRC's published list](#).

The named schemes

The named schemes are as follows:

- [Absolute Outsourcing, of Foerster Chambers, Todd Street, Bury, Manchester](#); and
- [Equity Participation Scheme \(EPS\) promoted by Purple Pay Ltd \(PPL\) of Gracechurch Street, London](#)

The users of the above-mentioned schemes both entered into a contract of employment with the provider, despite working as contractors. At the same time, the users also entered into a personal loan agreement with the provider whereby the users were paid unsecured loan advances into their bank account. In an attempt to avoid National Insurance Contributions and Income Tax deductions, contractors in both of the schemes were paid the national minimum wage, with the remainder of the individuals wages being paid through the advances from the loan.

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- [Peak PAYE Limited \(PEAK\)](#)

The users of this scheme entered into employment contracts with PEAK. The contract stipulated that the employees would work on client assignments and that they would receive at least the NMW. At the same time, the users entered into an Agreement to Grant an Option, called the Option Grant Agreement. An option grant is a right to acquire a set number of shares of stock of a company at a set price.

The users of the scheme submitted timesheets on the PEAK portal and the company subsequently invoiced the agency or end client for the services performed. PEAK retained between 15% to 20% of the amount invoiced. PEAK then paid the users the remaining balance via a combination of a NMW salary and an untaxed amount, supposedly made as payment for the grant of an option to the users. The secondary element of the payment as shown on the Option Grant note is made without being subject to deductions of tax and NICs.

What to look out for

HMRC has listed [three warning signs](#) to look out for that might mean you're being offered or facilitating a tax avoidance scheme:

- Are the proposed contract pay arrangements incredibly complicated?
- Is the contractor's take home pay more money after tax than you would have expected?
- Will your contractor get a cash bonus if they recommend a friend?

APSCo would urge members to be vigilant and take precautions when it sees this pattern of behaviour emerging.

What to do if you uncover a scam

If you uncover what you believe to be a scam, or are a victim of a scam. The HMRC advise not try to find out more about the tax evasion or let anyone know you're making a report. You can report a scam to the HMRC in the following ways:

- [Online](#) – you do not have to give your personal details and any information will be treated as confidential.
- By phone – you can also call the HMRC's fraud hotline on 0800 788 887. You can find out more about call charges [here](#).

If you have any queries, please contact the legal helpdesk at legalhelpdesk@apsco.org.