Key considerations for engaging contingent workers

Prior to engaging contingent workers, consider the factual background to determine their status, taking into account:

- whether they work (or could work) for others
- type of role / work they will be doing
- level of direction and control the engaging company has over their work
- remuneration and reward structure

Getting the determination wrong can impact the following area:

- Wage tax withholding - Does the engaging company need to withhold income tax and operate payroll?
- Social security contributions - Are social security contributions due by the engaging company? Is social security withholding required?
- Pension contributions - Are these due on amounts paid to the worker?
- Employment rights - What rights does the individual have (e.g., paid holiday or right not to be unfairly dismissed)?
- VAT - Who supplies the individual's services to the end customer? What is the nature of the supply? Should VAT be paid on amounts paid to workers?

Parties interested in ensuring that the determination is right include:

- tax authorities
- labor and/or pensions regulators
- social security authorities
- workers and prospectus workers
- unions

Wider implications: Contingent workers tend not to be subject to as much oversight as traditional employees, and more often may work remotely. Businesses must consider how they will protect their assets and brand, handle data protection compliance, and protect intellectual property and confidential information. A combination of strong contractual terms and technical and organizational measures can help with this.

Contingent workforce: managing the risks and uncertainties

How to manage the risks and how we can provide support:

- Gather factual/practical information on how the individual works and keep this up to date.
- Make a determination on status - We can provide guidance on how to do this in the relevant country.
- Ensure contracts reflect the factual position - We can draft these taking into account the different areas of risk.
- Periodically assess wider risk factors in the workforce to ensure it reflects the company’s risk appetite.
- Keep up to date with developments through our webinars and market insights.

Also consider the following:

- Taxation of Workers in the Gig Economy: A European Perspective
- Remote work: managing tax risk
- FutureWorks hub
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