

Section 44 Reporting Requirements

When do the reporting requirements apply?

A section 44 report must be submitted by a UK employment intermediary where they have not operated PAYE on the payments made to each worker they have supplied to a client. An employment intermediary is a person or business who makes arrangements for an individual to work for a third party. These are often referred to as an 'agency' or 'employment business'.

The report must be completed if all of the following conditions apply at any time during a reporting period for contracts with clients where:

- As a UK employment intermediary they are supplying the services of workers to that client;
- Provides the services of the worker working in the UK or where the services are provided overseas, that the worker is UK resident;
- Provides more than one worker's services to one or more clients;
- Makes one or more payments for the services (including payments to third parties).

Who must carry out the reporting?

The reporting requirement will be the responsibility of the intermediary closest to the end user (client) and has a contract with that client.

When must it be done?

The report (or reports) must be sent via electronic submission and there are specified reporting periods which are at least one every

3 months. There is a deadline date for each reporting period which is 1 month from the end of the reporting period.

A report can be removed once it has been submitted although this must be done before the next reporting period's deadline. If all the reports have been removed and this is after the original deadline date for that period, a late report penalty may be charged if the period does not have a report. This penalty may be due unless a new report has been sent, or a NIL report has been submitted or HMRC has been advised that the business is no longer an intermediary.

These relevant dates are as follows:

Reporting period	Deadline date	Date report can be removed
6 April to 5 July	5 August	5 November
6 July to 5 October	5 November	5 February
6 October to 5 January	5 February	5 May
6 January to 5 April	5 May	5 August

What information is included within the report?

The report is made up of three sections; information on the person completing the report, information on the worker, and information about the engagement and payment details.

Information about the intermediary making the reporting

- Full Name, Address and Postcode;
- PAYE Reference number;
- Start and End date of the report.

Information about the worker

- Full Name, Address and Postcode (if address not in UK, enter Postal code for address, if one not held leave blank);
- NI Number (Not to use temporary NI number);
- Date of Birth (if they don't have an NI number);
- Gender (if they don't have an NI number).

Information about the engagement and payment

The intermediary must select one of the below categories for the reason they have not operated PAYE on payment to the worker:

- A. is a self-employed contractor;
- B. is a self-employed contractor from a partnership;
- C. is a self-employed contractor from a limited liability partnership (LLP);
- D. is a worker from a limited company including PSC's;
- E. is a non-UK engagement for a worker supplied from a company, partnership or person from outside the UK;
- F. is another party operated PAYE on the workers payments.

If the worker falls within multiple categories, select the best one that describes why PAYE was not operated.

Other information that needs to be provided includes:

- Unique Taxpayer Reference (UTR) of the worker provided for entries under 'A', 'B' or 'C';
- Start and End Dates of the Engagement;
- Payment and Third Party Details where 'A', 'B', 'C', 'D' or 'E' applies must include:
- Amount paid for worker's service,
- Currency,
- Is this amount inclusive of VAT,
- Name of party paid by intermediary for worker's service and address,
- Companies House Registration.

How is the report submitted?

The report has to be completed using HMRC's specific reporting template. Once completed the report has to be submitted via the HMRC online service, this specific service can be accessed via HMRC's website. Enrolment for this service is required before this system can be used. To enrol an HMRC online account, an employer PAYE reference and Accounts Office reference are required.

What are the penalties for non-compliance?

Where a report is late an automatic penalty will be charged. The penalty is due on the number of offences in a 12 month period and the amounts are: £250 for the first offence, £500 for the second offence and £1,000 for the third and later offences.

Penalties may also be charged for incomplete or incorrect reports and these will be determined on a case-by-case basis.

Penalties may also be charged if HMRC find that a report should have submitted and one was not.

When do the reporting requirements not apply?

A report does not need to be completed if all the following apply:

- The business is a UK employer.
- Who supplies workers to provide their services to end clients and no one else is involved in the chain.
- PAYE has been operated on the payments made to those workers.

Why is HMRC asking for this information?

HMRC intend to use the information to identify possible cases of non-compliance with the new section 44 legislation by intermediaries they believe are still facilitating false self-employment.

In addition, our opinion is that the reports will be used as an information gathering exercise by HMRC to identify potential targets for IR35 enquires. HMRC will have the information available to be able to identify individuals operating via a Personal Service Company (PSC), as they will know the amount of income received by the PSC, they will be able to form a list of PSC's where the largest IR35 tax take would be.

Francis Clark is here to help

Francis Clark's team of specialists are here to help you with any concerns you may have around the reporting requirement, and are able to offer:

- One-off consultancy on matters such as how to report, who to report and when to report;
- Initial setup of the procedures and information gathering required to undertake the reporting;
- Review of existing and new contracts to ensure you are able to obtain the information needed to fulfil the reporting requirement;
- Relieve you of the compliance burden, and ensure that your filing is done correctly and on time;
- Advice on the potential IR35 fall out for your contractors of the increased scrutiny on them from the new reporting.

