

EXCLUSIVELY FOR CONTRACTORS

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GOVERNMENT CRUSHES IR35 REBELLION

This headline may seem an unnecessarily emotive one but even the most ardent PCG supporter can draw very few crumbs of comfort from the Judicial Review even though pro PCG websites seem to be hailing it as a victory. Mr Justice Burton refused leave to appeal the decision and PCG will be picking up the bill for the Inland Revenue's costs as well as their own. He did give a rap on the knuckles to the Government by criticizing the way that the legislation had been introduced and administered so far and it is possible that the Revenue will be a little more circumspect in its treatment of individual cases but quite frankly we doubt it.

The good thing to come out of this long drawn out battle has been the way in which PCG have managed to mobilise support from a group of people not normally known for actively opposing Government legislation and the slightly reluctant commitment to repeal the legislation which has been extracted from the Conservatives. At this stage I must apologise to the reader who was extremely annoyed at my use of the word "Tories". I am sorry but I thought that they were the same.

A difficult problem now lies ahead for PCG. There are signs of "IR35 fatigue" setting in and it is true to say that the IT Sector in general and Computer Contractors in particular are not seen as being a particularly deserving cause for sympathy because of their relative affluence. It is inevitable that Labour will be re-elected for another five year term of increasing the burden of taxation while telling everybody that they are reducing it but it seems to us that PCG have to be very selective in what they do because a further 5 years of complaining about IR35 is likely to be counter-productive.

So, does PCG have a future? If it does, then in our view it can only be as a lobbying group aimed at the opposition parties and as a campaigning force within the industry itself to persuade agencies and their clients that flexibility of contracts is in everybody's interest. As you know the attitude taken by clients has generally been "this is our contract and if you want the work then sign it".

Those of you who have read this Newsletter over the last few months will know that we were very concerned that the Judicial Review would provide an excuse for contractors to delay the evil day when they had to accept that IR35 really was the law of the land. There are no such excuses now and those of you who have not paid their PAYE for the tax year just ended are already facing interest charges.

Gordon Morrison has been holding workshops since the announcement of the decision and these have been very well attended. Details of future workshops are listed on the enclosed response sheet. If you have not already been to one of these please book up by telephoning or e-mailing Tom Gaughan on 020 7730 8995 or e-mail tomg@wheawill.co.uk. Please feel free to bring along friends and workplace colleagues.

BUY TO LET

We have watched with astonishment the way in which money has continued to pour into the buy to let sector. Initially it was relatively well off people who had built up equity in their own residential properties and used this to provide the deposit for a new property. Now however, it seems that building societies and banks are becoming keener to lend and increasingly relaxed as to the criteria

that they use when assessing new propositions.

It has been very much win-win for this sector, particularly for those in the South East. With gross rental returns of approximately 10%, low mortgage rates and capital appreciation it really has been a one way ride. But can it go on? We are obviously the wrong people to ask about this because we are amazed that it has lasted so long but before joining the buy to let rush consider these points:-

- Unless you are fortunate the property may be unoccupied, possibly for long periods and once the net return is exceeded by mortgage payments then in cashflow terms the adventure could become a drain on a day-to-day basis.
- How easy is it to realise your investment? At the moment properties seem to be selling easily but will this always be the case?
- For this exercise to really work you do depend on capital appreciation. Surely, the housing boom cannot carry on indefinitely and don't forget that it was only 12 years ago that the last one came to a shuddering end.

Incidentally, just a couple of additional points to bear in mind and these are:-

- Make sure that your insurance cover is appropriate for sub-letting.
- If you are dealing with the tenants yourself then make sure that you take out appropriate references including a credit check on your incoming tenant.

PENSIONS - THE EARLIER YOU START THE BETTER

We all know that the earlier you start contributing to a pension scheme the bigger the fund will be on your retirement but these statistics really drive the point home. If you start contributing at the age of 25 then gross premiums of £149 per month will give you a fund of £100,000 at the age 50. If you do not start until age 35 then the monthly premium required increases by a staggering £200 to £349 per month. If you are unwise enough to leave your pension planning until age 45 then it would take £1,435 per month to reach £100,000.

These figures assume a growth rate of 7% per annum and come from the Scottish Equitable.

PREMIUM RATE FAX LINES

Most people have heard of the popular new way to "make" money. That is to send an enquiry to a business, which requires a lengthy response by fax. The response is to a premium rate number and so can prove costly. Up until quite recently this scam seemed to have been confined to the conference booking sector but we have heard that it has been extended to other businesses including requests for computer related products.

There are two things that you can do to avoid being caught and these are:-

- 1 Read the small print on the bottom of the fax that you receive
- 2 Ask BT to stop all premium rate faxes to your business.

THE PERILS OF BEING AN EMPLOYER!

From time to time we have updated you on various changes in employment law. Usually these have been directed at the financial penalties involved with contravening the law but here we focus on some points which are not necessarily new but we have found are not widely known: -

- 1 Since October 1998 every employee has an entitlement to 4 weeks paid holiday each year. This also applies to part-time employees. For example anybody working 2 days per week is entitled to 4 weeks holiday (of 2 days a week).
- 2 Employees have an entitlement to receive a statement of the main terms and conditions of their employment after 8 weeks of service. If you dismiss somebody because you do not wish to issue this then they are entitled to take you to an employment tribunal and claim compensation even though they have not completed one year's service. This is because it falls into the category of a dismissal for "asserting statutory rights".
- 3 If you give somebody notice and they become ill and cannot work out their notice is it good enough to give them statutory sick pay only while they are "working out" their notice. The answer is no. They are entitled to receive full pay during their statutory notice period.

From time to time this newsletter strays into areas that we are not strictly competent to deal with e.g. employment law!

What we try to do is highlight the perils that exist from not taking advice in areas, which were previously relatively straightforward but which are now minefields for the unwary employer. We hate to say this, but unless you are a large employer with an in-house capability, if ever a problem arises with regard to employment law, then talk to your solicitor

INHERITANCE TAX AND DEEDS OF FAMILY ARRANGEMENT

There have been few changes to Inheritance Tax over the last few years, which is surprising. This is, after all, the principle tax which prevents individuals passing on wealth to the next generation and was expected to be a prime target of the Labour administration. Surprisingly it is still possible for an individual either when he or she is alive or through their will to transfer business property (including shares) free of inheritance tax. There are restrictions but generally planning to avoid Inheritance Tax is alive and well and not too expensive either.

It is even possible for the beneficiaries of a will to make savings when the deceased has either left a will which they all think is inappropriate or has not left a valid will at all. This is carried out by means of a Deed of Family Arrangement which must be completed within two years of the death and can effectively rewrite the will. A common reason for wanting to do this is in instances where the spouse has inherited all of the estate and the exemption to inheritance tax (currently £242,000) has not been utilised. A simple piece of tax planning would therefore see this exemption being utilised by some of the estate going to say the children of the marriage. With Inheritance Tax being imposed at a flat rate of 40% we leave you to work out the tax saving!

There have been rumours from time to time that this strategy will be outlawed by the Chancellor and although normally a move like this would be expected in a budget, this does not have to be the case and so if any of you are currently thinking about redistributing estates of relatives who have died within the last two years we suggest that you get on with it now..

QUOTE

The only place you find success before work is in the dictionary.

PROTECT YOURSELF AGAINST INVESTIGATION

You will already have heard from us about the arrangements that we have made for our clients to provide an inexpensive insurance policy, which will cover their fees in the event that they are investigated by the Inland Revenue. We regard this as being so important that it is worth reminding you about the scheme. The point is this, - in the past if you were selected for a tax investigation then there was a logical reason behind it. Either you had been particularly late in submitting information or, more likely, the information that had been provided raised question marks as to whether you had been avoiding tax. Sometimes the Inspector's suspicions would have been aroused because your declared income did not seem consistent with your standard of living or it may have been because he had specific knowledge of income that you had received but had not declared. Now all this has changed. Investigations will still be targeted as they were before but now there is a random element. We have already had clients investigated and although their tax affairs are perfectly in order it can take time, effort and of course fees to prove this. It is also, naturally enough, a worrying time for those clients.

The insurance cover that we have arranged should reduce the worries that you have at least about the fees. Please complete the response sheet and we will let you have further full details of the scheme if for some reason you have not already received these.

EVASION OF INCOME TAX

Over the last few years and particularly since the introduction of Self-Assessment an increasing number of people have been slipping into the "black economy".

Most taxpayers will be aware that Self-Assessment has brought with it a major change in the way that the Inland Revenue operates. Instead of a thorough examination of accounts and tax returns annually, there is now much more an obligation on individual taxpayers to calculate the tax that they owe correctly and an acceptance by the Revenue that they are doing so. The sting in the tail is of course that when the affairs of a particular tax payer (business or individual) does come out of the "hat" for closer scrutiny, any past misdemeanours are picked up and the eventual bill is much higher.

However, the Inland Revenue do find it difficult to pick up those people who are operating outside of the system and to encourage them to join the rest of us a new Act has come into force on 1st January 2001. It is aimed at those individuals who defraud both the Inland Revenue and the Benefits Agency. Offenders who are found guilty in the Magistrates Court face a maximum prison sentence of 6 months and a fine of £5,000. If they are tried in the Crown Court then the maximum penalty increases to 7 years in prison and an unlimited fine.

This is serious stuff and there is in place at the moment a confidential help line which is intended to encourage offenders to exit the black economy so that they do not qualify for some free hospitality provided by the Government.

QUOTE

Nothing makes a person more productive than the last minute.

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