

# EXCLUSIVELY FOR CONTRACTORS

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## THE CONTRACTOR WORLD WAITS

The long awaited Judicial Review into whether IR35 is legal or not will be heard on March 15<sup>th</sup>/16<sup>th</sup>. Your agony is unlikely to be over then as it could take up to two months for the Judgment to be handed down. That means we will be into another tax year with this issue still unresolved.

You will probably be reassured to hear that Dawn Primarolo is still saying that the measures are fair and that "there is no evidence that significant numbers of consultants are moving overseas". We think that she is probably right about the latter but completely wrong on the former.

There has also been some discussion in the accountancy world that the increase in the audit threshold to £1m means that some individuals are not receiving the advice on IR35 that they should be. We think that this is unlikely because, let's face it, £350,000 is still a pretty significant figure but it does raise the interesting point that professional advice is likely to be concentrated towards those individuals in higher earnings bands making it more difficult for the average individual to hear about let alone understand changes in legislation which could have a significant effect on him or her.

## TAX INSURANCE

You will all know that the emphasis on policing the affairs of taxpayers has shifted over the last few years. The introduction of Self Assessment means that the responsibility rests with the individual to offer the correct amount of tax and random investigations mean that even those taxpayers whose affairs are in order can face an extended grilling from the Inland Revenue.

As a response to this and many requests from our clients we have set up arrangements for our own clients to be covered in the event that they are selected for investigation. The premiums are modest particularly in the context of the professional fees which you could otherwise pay and which can easily amount to £5,000 or more and we will be writing to all of our clients in the next few days giving details of the arrangements we have made and inviting you to join the scheme.

## PENSIONS & DIVORCE

The Government have recognised that in many cases accumulated pension rights can often be the most significant asset of a couple when they divorce. There are already a number of ways in which these rights can be treated and from the 1<sup>st</sup> December 2000 comes another one called "pension sharing". The idea is that the pension benefits remain the property of the member of the scheme and the spouse obtains a shared benefit in what effectively amounts to a deferred maintenance order.

Pension sharing will apply to private schemes and not the basic State Pension where the former spouse is already able to

substitute the member's National Insurance contribution record for their own when calculating their pension rights.

## THE EQUITABLE LIFE AND YOUR PENSION

We have reported quite frequently on what has now proved to be the disintegration of this once revered Life Company. The "black hole" represented by the liabilities to policy holders who have guaranteed annuity rates had until the last week or so apparently scared off all potential purchasers and the Society had started to sell off its assets in various parcels.

Now two bidders have appeared on the scene because the Equitable's client base is so good that they cannot resist trying to take it over. It makes sense as long as the liabilities are not too high because the marketing costs of acquiring new policy holders is so great. It looks as if the Halifax Building Society has won the battle although there will be one or two twists in this tale before it finishes for sure.

Some contractors have policies with Equitable Life. For a free and independent appraisal of your options please complete the response sheet.

## END OF TAX YEAR PLANNING

Before you receive your next Newsletter there will have been another budget... Let's hope that this one doesn't include another time bomb like the 1999 budget which casually introduced IR35.

There is not much time for planning before the 5<sup>th</sup> April. Have you considered:-

- Pension contributions?
- Contributions to an ISA?
- Contributions to a Friendly Society with tax free benefits?
- If you have unrealised capital gains have you considered cashing in to the extent of your annual tax free exemption, - currently £7,100.

There is plenty more to consider but in many cases it's a question of "if you don't use it you'll lose it".

## NEW CLIENTS

We do only a small amount of advertising and almost all our new clients come from recommendations. At the risk of being repetitive can we say how much we appreciate these recommendations and how much we rely on them as well? Once the result of the Judicial Review is known, Gordon Morrison will be recommencing his workshops and this provides a good opportunity for us to meet contractors who are puzzled if not downright confused about IR35 and other topics as well. If you know people like this then please ask them to come along to one of our seminars.

## INLAND REVENUE WEBSITE

We regularly check the Inland Revenue website particularly to see if there are any developments from the "opposition" relating to IR35. The Revenue are increasingly using their website to set out the way that they will interpret parts of the legislation which are unclear. This has been particularly useful as far as IR35 is concerned because the legislation was hacked together with indecent haste and modified so many times that almost everything is unclear. Nevertheless it is useful to understand the basis on which they are interpreting particularly thorny areas.

The latest information or as one of our clients rather cynically puts it, disinformation concerns the status of contracts. As you will probably know the newly opened office in Cornwall has been so inundated with requests for rulings on the status of contracts that they have passed these out to local Tax Offices to determine. On their website you will find details of their internal manuals which include guidance notes on determining whether an individual is employed or self employed.

The Revenue have been in discussions with organisations representing Contractors about how the rules should be applied but completely missing is the area of "training". The Revenue have accepted that a purchase of equipment is an indicator of self employment and in a similar way an investment in training is as well. However, there is no reference at all about this in the manuals.

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## DO YOU KNOW ANYBODY STARTING IN BUSINESS?

The Inland Revenue has decided that too many people who start up in business remain undetected for too long. They are therefore launching a campaign backed with £100 fine which requires new businesses to be registered within three months of commencement.

This does not of course apply to you but may well apply to friends and workplace colleagues that you have. A gentle reminder from you may well save them a £100 fine.

Hopefully, if you do know people like this you will send them along to us!

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## TESSA

Do you remember good old TESSA? TESSA was the savings scheme abolished by the Government with effect from the 6<sup>th</sup> April 1999. Quite a lot of these arrangements are now maturing and people are investing the proceeds in ISAS. The rules as to what you can and cannot do are quite complicated and are influenced by investments you may already have made.

This is definitely an area where you need specialised advice and if this applies to you then please complete the appropriate part of the response form.

## DEFAMATION & ISP'S

Some time ago we commented on the Demon Internet case. There has been an interesting development quite recently following this case. Afraid of being held liable for defamation an ISP shut down a magazine for homosexuals. Now, the owner of the site is bringing a legal challenge to the European Court of Human Rights arguing that English libel laws breach the right to freedom of expression and that the ISP had no knowledge that the content of the site was defamatory.

It looks as though Europe is riding to the rescue of the ISP and that legislation will soon be in place relieving them of liability providing that they are only conduits of information.

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## NOT INTERESTED!

There was a recent report in the press about a businessman from Zimbabwe who had been asked by the Inspector of Taxes to submit details of his income. He replied saying that he was "not interested in this income service".

Please remove my name from your records "as this service has upset my mind".

Don't we all feel like this from time to time?!

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## M-COMMERCE

M Commerce is E Commerce conducted over mobile phones. Research indicates that this form of commerce which is currently worth \$51m this year will increase to a staggering \$37.7billion across Western Europe in 2004.

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## SEXUAL HARASSMENT

The employment legislation, which has been introduced over a period of time by the Government, is really starting to hit home. In one fairly unpleasant case an employee and his Manager were jailed for 21 and 12 months respectively when convicted on charges of indecent assault of women colleagues in their workplace.

We will all have seen situations (usually fuelled by drink) where public house humour turns into sexual harassment. This was a fairly unpleasant case but points out that this legislation is no laughing matter as these two men found out.

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## SUPPORT ADAM SMITH – THE RIGHT-WING THINK-TANK

The Adam Smith Institute has called for a radical overhaul of the taxation system saying that several taxes should be abolished completely and others should be "slashed to the bone". We have not yet seen a copy of the publication and just wonder what taxes they have in mind. There was a body of opinion not so long ago which claimed that virtually all taxation should be levied on expenditure i.e. directed towards VAT and that if individuals decided to save, then they should be allowed to do so, without the Chancellor's hand being dipped in their pocket so far as it is at the moment.

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