

EXCLUSIVELY FOR CONTRACTORS

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Now Come Into The Real World PCG

After another crushing defeat which will probably be hailed once again by PCG as a moral victory, any remaining doubts as to whether IR35 was 'the law of the land' have finally been laid to rest.

Regular readers of this newsletter will know how ill-advised we have considered this action by PCG to be, not just because there was virtually no prospect of success but also because the highly confrontational stance taken by PCG antagonised the Government and almost certainly delayed any changes to the legislation which would have benefited contractors. Don't take our word for this, - just read the commentary contained in various websites which reported on the progress of the challenge made to the legislation.

Some interesting comments on the Accounting Web site followed the verdict, - things like:-

"Nice try PCG but the case was weak and no-one except contractors cared".

"PCG launched as a pressure group to attempt to coerce the IR into retracting IR35. In doing so, the general rowdiness of the PCG's membership (on forums such as Shout99 - very appropriate title - and Number 10's forums) got up the Government's backs even more".

"A cynic would say a large pot of money was gathered playing on emotions of certain people and so there were two alternatives, spend it with lawyers and other high flyers or return it to the original payers".

"A cynic would say the litigants deliberately refused to recognise that a Western country has the sovereign right to raise taxes in any way it wants to. Equity does not arise in tax law. The taxpayer just cannot say 'The tax is not fair, Guv!'."

"Can I just add, most thought PCG would lose anyway so the result is not a great surprise. Their tactics have been all wrong from the start."

Our view, - well months ago we said that the future of PCG should 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". Frankly, PCG have let

down the contractors who have funded it. If you have been a contributor to PCG then we suggest you ask for some detailed accounts showing where your money has gone.

Even now PCG are talking tough "we will drive through case law...". The Inland Revenue will be as keen as anybody to establish case law. They want to know just how the courts will interpret the IR35 legislation in a practical way.

Possibly the biggest concern that we have had is that many contractors have swallowed the PCG bait and have believed that IR35 will be repealed. It is evident to everybody that it will not be and so contractors who have so far ignored the new rules would be well advised to go running to their Accountant so that their affairs can be put in order very quickly indeed.

Just listen to the comment contained in another web site, - "Most contractors are either unprepared or don't care about the IR35 legislation even though the first payments to the Government will be due in April" so says the founder of NamesPlacesFaces.com, a reunion site for contractors.

CONTRACTOR DEMAND - GLOOM AND DOOM

When you're down, you're really down, - at least that's what the old saying says. According to a survey organised by the National Computing Centre the percentage of the IT workforce in the UK filled by contractors has reduced from 17% in 1999 to only 9% in 2001. It is also not too surprising to see that companies are having less problems in filling vacancies.

Of course, nobody, however optimistic, would pretend that the market for computer contractors is as good as it was but before you think of paying a visit to Beachy Head just stop and consider what market forces always do in a recession and how it is likely to affect you.

The economic cycle operates in three stages:-

- 1) A buoyant and expanding economy creates a demand for IT services which cannot easily be filled because there is a shortage of skilled professionals who can actually do the work. This stage of the economy as far as contractors are concerned finished in 1999 when numbers peaked.
- 2) The economy slows down and employers use less contractors relying much more on their full time staff.
- 3) As the economy 'flattens' even more companies no longer want the fixed costs associated with permanent

employees and are also looking to make savings on their overheads. This is the stage when redundancies are made and companies begin to rely heavily on contract staff who can provide the skills required without adding to fixed costs.

We have not yet reached the third stage but we seem to be getting there! Major employers like Hewlett Packard and ICL have already made a big effort to reduce costs by slashing pay rates and the next stage in the cycle should be that they will start laying off increasing numbers of permanent staff. It is at this point in the cycle (stage 3) when computer contractors feel least optimistic that things will start to pick up for them but everything is in place for their services to be really in demand. Don't forget that another factor comes into the equation and that is 'head count'. Head count, particularly with American companies is extremely important. They would much rather have the flexibility associated with contract staff than the certain costs of permanent staff.

In an interesting article in Shout99 these issues were discussed under the heading of 'Is the only way up for the IT contracting market?' Our answer to this is 'yes,- but with the politicians still claiming that there is no recession it may take a little while before it happens'.

So, hang in there and wait for the tide to turn. There is after all another old saying that says that it's always darkest before the dawn!

TAX RETURNS

Over the last two or three years the Government has indoctrinated everybody sufficiently to know that tax returns have to be submitted by 31st January or a £100 fine will result. According to figures released from the Inland Revenue a week or so ago between 30%-40% of tax returns which have been sent out have not yet been completed and returned to the Inland Revenue.

Whether this is just scare tactics or not we don't know but for our personal tax clients who have not sent their return back to us, please hurry up!

P.I. FIRM GOES OUT OF BUSINESS

CFT, an insurance company which has been providing cut price professional indemnity insurance for contractors has gone out of business.

For several years now we have been encouraging computer

contractors to take out professional indemnity insurance. As contractors twist and turn in an effort to avoid the clutches of IR35 the trap that awaits them if they are successful is that they are well and truly regarded as independent businesses responsible for the work that they do and the advice that they give.

The Courts have extended the scope of professional negligence. In a recently decided case a surveyor was found to be personally liable for a valuation that he provided when his employer went bust. So, the ultimate protection for a contractor is not the fact that his limited company has no assets because any claimant will 'look through' the limited liability status of the company to reach the contractor. The protection is a policy that provides professional indemnity cover.

If you're interested in exploring the market then please complete the enclosed response form.

QUOTE

"It is better to fight for the good, than to rail at the ill"
Tennyson

HELP OR HARRASSMENT?

Some of you may have received a telephone call from the Inland Revenue asking you if you have submitted your tax return which as everybody should know by now is due by 31st January.

Several of our clients have received telephone calls and a large majority of these have felt that this is not so much a helpful move from the Inland Revenue to prevent a fine of £100 becoming payable but more a case of Big Brother is watching you even more closely than you thought he was!

Broadly speaking the individuals who have been targeted for telephone calls are those falling into the following categories:-

- 1 Tax payers who were late in filing their return last year
- 2 Those with self employed profiles in the construction industry (notorious for late payment of tax).
- 3 New self assessment tax payers.

All those being telephoned will be asked at an early stage whether or not somebody else is responsible for completing their tax return,- usually an Accountant of course and if the answer is in the affirmative then that is the end of the telephone call.

What's your view about this new approach from the Inland Revenue? Is it help or is it harassment. We would appreciate your views and perhaps you would be kind enough to spend a moment or two to email debbieb@wheawill.co.uk.

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