

# EXCLUSIVELY FOR CONTRACTORS

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## Umbrella Companies

In our last newsletter which discussed the insolvency of Conranet, an umbrella company, which affected about 100 contractors we repeated what we have often said before which is that we do not think that umbrella companies are appropriate for computer contractors. The savings that they claim to offer tend to be illusory and passing control not only of your financial affairs but your money as well to a third party seems to us a completely unnecessary risk. So it proved with Conranet.

Umbrella companies are typically structured so that each participant has a separate class of share and is subjected to a deduction (generally a percentage of earnings) to cover the cost of running the arrangement. Direct expenses of the contractor would also be deducted and the balance distributed by way of a small salary with the rest as a dividend.

If you are using an umbrella company you will be caught by IR35 if you fall within any of the following definitions:-

- You own more than 5% of the shares in the company.
- You receive a payment or benefit representing remuneration for services provided to the client.
- You receive a payment or benefit which is not taxable under Schedule E, or have a right to do so.

We have summarised these three conditions but basically they are aimed at catching dividend payments.

Umbrella companies (also known as composites) are still around but they have to be careful that the only income which is treated in the normal 'small salary large dividend' way is income from non IR35 assignments. Umbrellas rely on a signed statement from the contractor to confirm this and the responsibility for carrying out the calculation of tax and national insurance is that of the umbrella. So, there is a great deal of risk involved if the particular assignment is re-categorised as falling within IR35. Can the umbrella company recover from the participant the amount of the tax liability?

Usually, the 5% round sum expense allowance will be used by the umbrella for operating the arrangements and this is one reason why contractors who typically earn more than other classes of professional falling within IR35 will probably pay more for the service. The amount of work involved will not be any more but the amount paid by the contractor will be.

We considered setting up umbrella arrangements for clients who intended to be in contracting for only a short period of time but the savings were just not there and the arrangements themselves are so artificial that our view then which is held even more strongly now is that they do not provide a cheap and effective way for contractors to manage their affairs.

## EQUITABLE LIFE – UPDATE

There are so many bodies (and potential bodies) being lined up to take the blame that the whole thing is looking like a scene from a disaster movie.

For those of you who are becoming thoroughly confused the current situation is as follows:-

- The solicitors who advised Equitable Life and who have incidentally acted for them for about 200 years (!) have passed scrutiny and will not be sued.
- Ernst & Young, the Auditors, are being sued for £2.6bn plus interest.
- Fifteen former executive and non-executive Directors are being sued for alleged breaches of duty. This claim is for £3.6bn.
- As a poor old Equitable Life victim myself I have been wondering about the action that was threatened against the regulator. This decision has been deferred pending the outcome of an independent investigation which is currently being undertaken by Lord Penrose.

After the Lawyers have stuck their talons into the pot,- let's hope that there will be something left for the members of the society!

## BE WARY OF BUY TO LET

We have commented on the buy to let scene several times over the last few months. For many people it has proved an absolute winner with low interest rates and 100% occupancy as well as excellent capital growth but something as good as this will not last forever. At some time market forces swing into action to make the risk/reward equation much less of a certain bet.

Last year almost 70,000 new mortgages were given just to the buy to let market and apparently advances are continuing at the same rate this year. Think carefully before you step into this market. It doesn't take much to go wrong for life to get really uncomfortable. A rise in interest rates, a reduction in the demand for accommodation and,- perish the thought (!) a slow down in the property market can all mean that it could be the time for taking your profits rather than gearing yourself up to purchase further properties. Information from estate agents is already suggesting falling demand for rental accommodation and this will certainly lead to a reduction in rentals, and,- how long can the property market 'keep on rising'?!

## BUSINESS FAILURES INCREASE

It is worrying that despite all the good news statistics emanating from the Government that business failures increased by over 15% during the first quarter of this year.

Smaller companies have been more severely affected than larger ones and there has been an increase of 20% in this category compared with 10% for larger businesses. The worst hit area is Wales and the only part of the country to record a drop in failures is, - London.

## RECORDING YOUR CALLS

A recent article in one of the Sunday newspapers has prompted us to pass on an interesting (interesting in all senses of the word!) telephone call that a client of ours had with one of the clearing banks two or three years ago.

He had applied for a mortgage, had his application accepted and had also spent some time in negotiating the terms relating to the initial period of the loan which particularly involved the additional interest penalty that he would have to pay if he redeemed it early. Having agreed terms with the bank's mortgage adviser he then signed the application form without looking closely at it and gave it back to the mortgage adviser who was sitting opposite him when he signed it.

Subsequently he paid off the mortgage early and the bank applied their penalty interest rules charging him a further £12,500 which they deducted from the sale proceeds.

He protested that the terms that he had agreed were not reflected in the documentation that he had signed but the bank refused to relent.

He then took matters into his own hands recording two telephone calls, one to his personal bank manager and the second to the mortgage adviser who had since left the bank. Both of them agreed the arrangement that he had actually come to with the bank was not reflected in the mortgage application that he had signed.

He had written several letters to the bank over a six month period and made no progress but after providing transcripts of these conversations to the bank, without any further questions at all they refunded the £12,500.

So, what's all this about? Well, how many times have you found that conversations that you have had relating to quite important things, usually of a financial nature do not proceed along the lines of what you had agreed on the telephone? Most banks and insurance companies advise you before your conversation with them that the call will be recorded for 'training purposes'. You are entitled to a transcript of these recordings. With the enormous growth in telephone banking and the predilection of many financial institutions towards call

centres, if you ever get into a dispute where what you agreed on the telephone was not implemented properly we suggest that you ask for a transcript of the recording.

We were not terribly happy with the tactics that our client employed because obviously he did not inform the two people that he spoke to that he was recording their call (quite probably this is illegal!) but it certainly worked.

## VAT ENFORCEMENT

You will have known from reading this newsletter over the last few months that Government departments are really turning the screw in collecting every bit of tax that they can. We certainly don't object to this because our clients operate within the law and although we try to minimise all of their tax liabilities as best we can it is in all of our interests to make sure that the good guys do not have to subsidise the crooks of this world.

On 5<sup>th</sup> April (the last day of the tax year) we, no doubt like other firms of Accountants, received a letter from the 'Finchley Shadow Economy Team, London region'. This letter asked us as Accountants to notify the Customs and Excise about any of our clients who 'could be or are approaching the VAT registration threshold (currently £54,000)'. The letter suggests that an amnesty could be on the cards in an attempt to get people out of the Shadow Economy.

We certainly see nothing wrong with this but coming hard on the heels as it does of other initiatives by the Inland Revenue where people are invited to provide confidential information about their ex employers (sometimes going back several years) it does make us wonder whether this is setting a worrying trend.

Big Brother really is watching you.

## WATCH THE KEYBOARD!

A New York jury awarded \$5.3m to a Secretary who claimed that she was injured by a DEC keyboard. Her Lawyers won the case on the basis that DEC should have warned its users about the dangers of typing but did not.

Unfortunately we're not making this up, - it's absolutely true!

## THANKS TO YOU

As we have said many times in these newsletters, we do rely on our clients and other readers of this newsletter for referrals to new clients. We do appreciate your help and if you know of other contractors who are not happy with their Accountants, please give them our details. Our first meeting is always free and without any obligation for the contractor.

GORDON MORRISON / RICHARD HAYNES / PAUL CROZIER / IAN ROSS  
LONDON OFFICE  
MOUNTBARROW HOUSE, 12 ELIZABETH STREET, LONDON SW1W 9RB  
☎ 020-7730 8995 FAX: 020-7824 8108  
EMAIL: gordonm/richardh/paulc/ianr@wheawill.co.uk  
WWW: www.wheawill.co.uk

SARA COSTIGAN  
COMPANY SECRETARY  
12 ELIZABETH STREET,  
LONDON SW1W 9RB  
☎ 020-7730 0883  
FAX: 020-7823 5953

IAN HEMSWORTH  
HUDDERSFIELD OFFICE  
PO Box B30,  
35 WESTGATE,  
HUDDERSFIELD HD1 1PA  
(ASSOCIATED OFFICE)  
☎ 01484-423691  
FAX: 01484-518803