

EXCLUSIVELY FOR CONTRACTORS

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IR35 – EVEN THE STATISTICS ARE CONFUSING!

A recent survey from silicon.com of more than 1,200 of their readers shows that 24% of IT Contractors are leaving the UK to work abroad and 18% have abandoned their careers as contractors and have taken permanent jobs.

One of the arguments against the IR35 legislation was that it would reduce the flexibility of labour and damage the UK economy generally. Not surprisingly these rather startling results appear to confirm these fears.

Our experience is that a number of contractors are moving into permanent employment. There seems to be two reasons for this, - one of them being the aggravation of IR35 which they feel that they could do without but the other is that work has been fairly thin on the ground this year and contracts more difficult to find.

There were some fairly predictably responses to the survey. PCG said that they were not at all surprised, Computer People did not agree with the survey on the basis that the exodus of contractors from this country was exaggerated and that the move to permanent work was a “seasonal thing” while the Inland Revenue said that “the answers are likely to over estimate the numbers who have changed their behaviour in the ways described”. They did not say why!

So, what is the truth? There is no doubt in our mind that the IR35 legislation has been harmful, - as much as anything because of the confusion that it has caused and the inept and deceitful way that it has been introduced but we do think that the findings of the survey present an extreme view that is not mirrored by the contractor population generally. We are more worried about whether a new Government will repeal the legislation and we have great doubts on that score.

PROGRESS

A gentleman called Paul Wilmott has achieved the dubious distinction of becoming the first man in the UK to obtain his divorce via the internet. The proceedings took 6 months to complete and cost him the grand sum of £210, a combination of fees paid to the Court and to Divorce-online.co.uk

IR35 WORKSHOPS

We have arranged a much more intensive programme of workshops in the run up to Christmas. These are shown on the enclosed response form.

IR35, - THE FUTURE

If you have been reading our articles on IR35 over the last 18 months you will know that we do not believe that this Government will change the legislation in any way which will reduce the burden on contractors. There have been changes on a regular basis as to the way that the legislation will be enforced but the Government has turned a deaf ear to the barrage of criticism that it has received from all sides.

There is nothing laid down in statute as to the definition of an employee and everything relies on Case Law. IR35 is no different and it will be very surprising indeed if there were not several cases relating to the interpretation of the Law. These will probably take anything up to five years before they come to the Courts and are decided.

What worries us much more is what the Tories if/when they get back to power will do. Initially they gave some very strong signals that they would repeal IR35 completely. It is therefore very worrying for contractors to hear the latest pronouncements. At the beginning of September Michael Portillo would only go so far as to give a pledge to study the “impact” of tax on the self-employed. There was a less than enthusiastic reaction to this statement which probably prompted William Hague to say a week later that the Tories would reform IR35 “as part of a package of measures”. He went on to say that regulations for the IT Industry need to be simplified and that IR35 “has created a brain drain of our brightest and most productive workers”.

Although sounding rather more positive than Michael Portillo this statement contained nothing very specific and only the most optimistic of you will believe that Reform means Abolition.

Perhaps we should all take a leaf out of the fuel protesters book and blockade the Inland Revenue offices “to stop the tax payments getting through!”.

BARRISTERS JOIN THE REAL WORLD

Did you know that for over two hundred years Barristers have enjoyed immunity from negligence claims brought by their clients in respect of work that they have done in Court? Three months ago this immunity was removed and all “advocates” whether they be Barristers or Solicitors now fall under the general principal of English law that if a person has suffered loss as a result of professional negligence then they can bring a case in the Courts and are entitled to damages if they are successful.

Not so good if you are a Barrister but why should they be any different from the rest of us?

BANKS UNDER FIRE AGAIN

It was about 10 years ago after the end of the last major property boom when borrowers were struggling to repay debt that banks were last under the spotlight. There are signs that with the property market appearing to have peaked again that the same thing is happening as the newspapers print more and more stories about customers feuding with their banks.

A bizarre crop of these was in one of the Sunday newspapers recently and the one that took our eye was the customer who banked with the Yorkshire Bank and was charged £20 for a £10 overdraft on his account. He took the enterprising step of changing his name by deed poll to "Yorkshire Bank plc are fascist bastards". When eventually repaying him the balance on his account the bank were obliged to use this name on the cheque that they made out to him!

Can anybody come up with some ideas about Gordon Brown and IR35?!

PROVISION OF LONG-TERM CARE

How many of you have elderly parents and feel that the only way that they can be properly looked after is in a Nursing Home? A Royal Commission have recently reported with their recommendations to the Government and although the Government have made certain promises as a result of the report there do not seem to have been many dramatic changes and this is the Government's position:-

- The elderly will have to pay all their bills for long-term care except for nursing costs **unless** they pass a means-test.
- All those people with more than £18,000 in assets including a home if they live alone, will receive no help from the State. Some help will be provided for those who have assets between £10,000-£18,000. Only people with less than £10,000 will have care bills met in full.
- The Government clearly recognises that long-term care insurance has to be looked at as the solution to this issue and is committed to a consultation process on the regulation of these insurance policies.

Estimates are that more than 40,000 elderly people have to sell their properties each year to cover their nursing home bills. It is a fact that a nursing home costs on average between £350 - £450 a week as a minimum.

It has long been a complaint of ours that elderly

people who have paid their taxes for in many cases 50 years and who have saved diligently find that at their greatest time of need they are forced to sell their assets to pay for Nursing Home care until those assets are diminished to a meagre amount.

EQUITABLE LIFE, - THE CONFUSION CONTINUES

Regular readers of this Newsletter will know that we have updated you on the developments at the Equitable Life for the last two years or so. We have been doing this because some of you made contributions to the Society's Pension Products and have a keen interest in the outcome of the Court case, which has recently been decided.

For new readers, the Equitable Life together with several other Life Companies issued policies, which gave certain pension guarantees. At the time these guarantees were given annuity rates were so high that there seemed no risk of anybody wanting to take up the guarantees in the future. Falling interest rates have changed all that and what the Equitable tried to do was to say that anybody who wanted to take advantage of the guarantee would have to sacrifice the bonuses which would otherwise attach to their pension policy. In other words they wanted to wriggle out from what they had promised.

The Courts found against them and as a consequence the Equitable is up for sale. Now it has been disclosed that the Equitable were trying to reduce the number of pensioners who might otherwise have taken the guaranteed rate by saying that if they did then their wives would lose out. It has now been revealed that this is incorrect. The writer has been a victim of this campaign of disinformation and we do suggest very strongly that anybody with an Equitable Life policy should consult with an Independent Financial Adviser to get some proper advice on what options really are open to them.

QUOTE FOR THE MONTH

Nothing in the world can take the place of persistence. Talent will not; nothing is more common than unsuccessful men with talent. Genius will not; unrewarded genius is almost a proverb. Education will not; the world is full of educated derelicts. Persistence and determination alone are omnipotent".

Calvin Coolidge

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