

Accountax win IR35 case for contractor

Important factors in this [IR35](#) decision

- o [Control](#)
- o [Mutuality of Obligation](#)
- o Financial Risk

When contractors can make it clear that they control their own businesses and that they make their own hours, and take holidays at their discretion, they can win IR35 cases.

The Emsworth, Hampshire-based First Word Software Ltd. , a specialist in the migration of human resource and payroll systems, has just beaten down an attack by HMRC. First Word Software was successfully represented by Matt Boddington of the Milton-Keynes-based IR35 consultants [Accountax Consulting](#).

Neil Atkins, managing director of First Word, contracted through a Weybridge, Surrey agency called Plexus Personnel with the London-based news agency Reuters Ltd. in 2000 to supply such services.

Control

Atkins determined the hours worked, and often worked either on the train (commuting to and from Reuters' offices) or from his own home office. Atkins received no holidays from Reuters, and indeed, Atkins decided for himself when to go on holiday or to take leave. "This was an important factor in the decision," says Matt Boddington, who defended the case for Accountax. "It was clear that Atkins was in no way subject to decisions by Reuters management regarding his time.

“ There was no question about the contractor deciding how the work was to be done ”

Matt Boddington - Accountax Consulting

Further, as the judges noted, Mr Atkins was engaged for his specific expertise and was engaged only for a particular project. "There was no question that Atkins' method of work should be his own," Boddington points out. The contractor was, as Atkins told the court, a small piece in a large jigsaw," and there was no hierarchy from Reuters to which Atkins answered. The evidence was that Mr Atkins was engaged to provide a link in a large chain, and the way in which that was done was left to him. Although Reuters decided the thing to be done, (namely the migration of the legacy computer systems) Mr Atkins decided the way in which the migration of the human resource and payroll systems was to be undertaken.

Mutuality of Obligation

It was also clear, the judges found, that Atkins only received remuneration for work done on this specific project. Had Atkins not been able to work on this project, Reuters would not have found other work for Atkins to do. "The client were under no obligation to continue to make work available for the duration of the agreement," says Boddington.

Financial Risk

First Word Software was also plainly in business on its own account, and faced financial risk in completing the contract for Plexus Personnel and Reuters. At times Plexus Personnel was late with payments, and Atkins had to finance these periods. At other times, Atkins made investments in First Word. Equally important, Atkins brought his own expertise and property rights to the work at Reuters. And Atkins found work with a number of other companies after the work at Reuters.

“ It was clear that the contractor was in no way subject to the client with regard to working hours ”

Matt Boddington - Accountax Consulting

These issues built a strong case for First Word Software, and HMRC, which trotted out the usual arguments, could not provide significant proof for them. All of which goes to show that businesslike contractors, who run their own businesses, have little to fear from IR35.

Published: Thursday, January 24, 2008

[Tweet](#)

© 2011 All rights reserved. Reproduction in whole or in part without permission is prohibited. Please see our [copyright notice](#). If you want to use any content you have seen on this site then please [request our media pack](#) and ask for details of our Content Licencing Service.

Readers Comments...



Be the first to comment on this article

Also of interest...

Related News:

- Island Consultants IR35 Case

Related Guides:

- What is IR35?
- Financial impact of IR35 on contractors
- When Should Contractors Start Considering IR35?
- How to Determine if Your Contract Passes IR35
- Getting Your Contract Reviewed For IR35
- IR35 History
- What contractors need to know about IR35 compliant contracts

Related Calculators:

- IR35 Calculator
- IR35 Taxes Calculator
- Deemed Payment Calculator

Related Internet Links:

- Accountax Consulting



ABCe verified website - last audit confirmed **130,682 monthly unique visitors**

© Copyright 2011 Byte-Vision Limited UK. All rights reserved [Copyright notice](#)