

Contractorcalculator exclusive interview: Anne Redston responds to house of lords critique

One of the principal experts on IR35 says that there continue to be issues with the definition of self-employment and its tax consequences.

"It's difficult to see a way forward to making the tax burden equal and fair for both contractors and the employed," says Anne Redston. "But the MSC legislation is not an attack on those who work through their own personal service companies, though there are undoubtedly problems with the definitions."

Known as 'Ms. [IR35](#),' former Ernst & Young tax chief Anne Redston has the reputation for being the leading expert on this crucial tax area for contractors. As a spokesperson for the Chartered Institute of Taxation, an agency which helps to shape tax legislation, Redston clarifies this view of what's needed for self employment.

Why Were Managed Service Companies Targeted?

Redston explains why [managed service companies](#) were targeted in the first place. "Two years ago, when the Government first approached this issue, there was reason for concern because poor and low-end workers were being forced by agencies into accepting contractor status through managed service companies so that clients could save money. The Government determined to put a stop to this, and so the issue of managed service companies was raised."

But Redston explains that there was serious concern about the use of managed service companies-- especially at the low end-- to avoid paying National Insurance contributions and tax. "The tax and especially the NIC losses were serious," Redston insists.

“ We need a clear definition in law of self employment ”
Ann Redston-CIOT

No New Solutions

"There are also wider issues about the tax gap between the employed and the self-employed, especially those working through limited companies," Redston points out.

"In the past the government has considered a number of solutions, one of which would be finding new ways to define both the employed and the self-employed to avoid the problems raised by the definition." This is exactly what the House of Lords Economic Affairs Committee has called for in its June report on the Finance Bill. The Committee made a case for finding new solutions for the way we tax.

Redston says that the Government has already tried to find such solutions unsuccessfully. "The Government looked at ways to make the tax burden more even, but narrowing the gap between the employed and the self-employed seemed difficult to do. It is not just a tax issue, but involves national insurance contributions. These used to be closely linked to benefits, but no longer are strictly so."

Define Self-Employment in Law

Redston insists that better definitions would be the most useful next step: "What is needed is a clear definition in law of self-employment, and what makes it different from employment. For now, all we have is case law which is complex and difficult," Redston says.

“ We looked at ways to make the tax burden more even but no new solutions seemed practicable ”
Ann Redston-CIOT

But Contractors Can Work Under This One

Redston admits that the first draft of the managed service company legislation, which caused great confusion in the industry, was easy for MSC providers to work around. "However the second and current version is not perfect: there is a lack of clear definition." Redston says, "But it should also be clear that simply switching contractors to a [limited company](#) will not protect them from the new designation."

Redston shrugs off the outraged reaction by contractors to the new legislation. "The Government have made it clear that any contractors who genuinely run their own businesses have nothing to fear under the new law. If you genuinely work through your own service company, the legislation is not targeted at you," Redston says.

Many would disagree with this viewpoint, as the line between a contractor with a limited company and a managed service company still seems terribly difficult to draw. But it is clear that a rethinking of contractor taxation is necessary, and while Redston has discussed the first steps, we will be talking with others who are taking this reconceptualisation further in the coming month.

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