

## Contractorcalculator exclusive: income shifting proposals: plan to revenge Arctic Systems

The plan to attack '[income shifting](#)' between spouses or partners at contractor companies is not yet in final form, ContractorCalculator has learned.

### A Hasty Attack

"Income shifting" is the latest buzzword invented by the Treasury in their continuing attack on contractors. What the Treasury now calls 'income shifting' is actually involves a very special way of looking at how income at contractor companies is divided up. All companies distribute [dividend income](#) between shareholders. But the Treasury apparently wishes to single out contractors who are married, and in whose companies, one of the spouses plays a less important role than the other one.

It doesn't sound promising does it? But does the Government know how to manage the attack?

### Still Waffling

ContractorCalculator has learned that the [income shifting legislation](#) is not yet determined in clear form. As little as a few weeks ago, the Treasury was still discussing these issues with a number of consulting bodies, and the terms of the law were anything but clear. A spokesman forThe Treasury said that the consultation draft would appear in late November and that all the issues would be addressed.

Nonetheless, the Government plans to rush this measure into the Finance law in April 2008. A consultation will be held, but only after the draft legislation has already been produced in the form of a consultation paper.

"We risk," says one lawyer, "seeing another piece of half-formed and badly drafted legislation of the type that appeared for [IR35](#) and for the [managed service companies](#) provisions. The approach that the Government will take on 'income shifting' is anything but clear, especially because this concept has never been defined in UK law, nor in the laws of other countries in this particular context."

“ The income shifting legislation is not yet in final form ”  
Industry Sources

### Need For Careful Definition

What is special about 'income shifting' is that it will require very careful definition. The Revenue singled out Geoff and Diana Jones of [Arctic Systems](#) because Diana worked as bookkeeper and administrator for the company, while Geoff was the IT consultant who brought in all the business. The Revenue based its case on Diana's role in the business: the claim was that income from the company in dividend form was being 'shifted' to her only because her personal income level was lower than Geoff's.

Does this approach to 'income shifting' seem fair? Says Andrew Hubbard, chairman of the London-based agency the [Chartered Institute of Taxation](#) which supported Arctic Systems: "We can understand why the Government would want to review the structural basis of small business taxation. There are anomalies in the current system and we would support reforms that more closely linked taxation with the underlying economic activity rather than with the legal form of that activity. But it is difficult to see how there can be a proper and open debate and consultation if the outcome has been pre-determined."

So any law governing this kind of 'income shifting' will have to define very carefully what kind of role the partner or spouse must play in the company in order to receive dividend income. What about a Web site designer? What about a marketing specialist? Are these roles too unimportant, as far as the Revenue is concerned, to be entitled to dividend income.

“ Can there be a proper and open debate if the outcome has been pre determined ”  
Andrew Hubbard-CIOT

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