

Contractors lose Island Consultants Ltd IR35 case to the revenue

In a reversal of consistent successes for contractors in [IR35](#) cases at the Special Commissioners, a recent ruling has resulted in a firm losing its IR35 case.

An Unusual Move

The involved the firm Island Consultants Ltd who were represented by Milton-Keynes-based consultancy [Accountax](#). The Special Commissioners have found that the company is indeed within IR35. written decision was published yesterday confirming the terms of the decision, which is currently sub judice (see [Island Consultants Ltd v Revenue & Customs](#). Expert analysis will follow.

No Appeal Planned

Dave Smith, director of [Accountax](#), told ContractorCalculator that the firm did not intend to appeal. "My only comment arising from the case is that IR35 appeals will always come down to evidence on the day," Smith says.

The case goes back about four years when the Revenue took exception to Island Consulting's long relationship with a single client.

Accountax is an approved [PCG](#) supplier and has, until now, never lost an IR35 case. The legislation regarding IR35 has in fact been disastrous from the point of view of the Revenue, which has lost the vast majority of cases that it has attempted to contest. Accountax had never before lost a case of this kind.

As yet, Island Consultants Ltd have been unavailable for comment regarding the decision.

In fact, in tax investigations completed by PCG's approved suppliers as of 17 July 2007, the PCG suppliers have won 1427, and the Revenue has won only 4.

IR35 Doesn't Work Well

The complexity and vagueness of the original IR35 legislation is much to blame for this state of affairs. The Chartered Institute of Taxation, an independent agency which is relied upon by the Government in fiscal matters, is calling for a full-scale review of small business taxation, with particular reference to this kind of issue, and it is possible that the Government will undertake a revision of IR35 in the coming year.

Earlier this month, the Government admitted that the enforcement of the Intermediaries Legislation (IR35) – had been "patchy." The House of Lords Economic Affairs Committee Report on the Budget in July also severely criticised the effectiveness of the IR35 legislation, and called for a new look at contractor taxation.

Published: Friday, July 20, 2007

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Dave Smith - Accountax

“ Approved PCG suppliers have won 1427 IR35 investigations and the Revenue has only won 4 ”

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