

Contractors need clear language in law, JSA's Roback declares

As the Treasury proceeds with its attack on the companies contractors use to run their businesses—namely managed service companies and composites—there is considerable concern in the contracting industry about how tax legislation will evolve.

The current legislation has provoked a wave of protest from the contracting industry because it is viewed across the industry as obscure and difficult in application. There are genuine fears on the part of lawyers and accountants that it will take five years of lawsuits to establish the case law needed under the proposed legislation to assure good practice.

Clear Legal Language Needed

What to do? Says Barry Roback, chief executive of the Watford-based [JSA](#) which specialises in contractor affairs: "The Government must establish in law, for once and for all, the difference between contract service providers and employees, in order to bring to an end the current raft of confusing, misleading and unfair taxation legislation."

Contractors who accept the risk of flexible working without 'employment benefits,' should not be treated like employees in regard to taxes.

As Roback points out, the attacks on the contracting industry have been accompanied by inconsistent attacks on the 'self-employed' white collar professional, Roback believes that there is an urgent need to clarify and codify the legal status of contractors and to differentiate between low-paid contract workers and those providing professional services.

According to Roback, Treasury officials seem unable to distinguish between service and employment contracts. They seem fixated on the idea that people become contractors with the sole purpose of paying less tax than those in permanent employment.

“ The Government must establish in law for once and for all the difference between contract service providers and employees ”

Barry Roback - JSA Group

Contracting is Not a Tax Dodge

"Contracting is not a tax dodge," Roback points out

Therefore the thrust of recent legislation, particularly relating to IR35 and MSCs, has been to try to apply PAYE principles, with all their ramifications, to service contracts.

"The HMRC seems unwilling or incapable of recognising that the vast majority of contractors are service providers, and should be treated as such, rather than as employees, for tax purposes," Roback argues.

Contractors Take An Economic Risk

"Government officials appear reluctant to accept that contractors take on an economic risk by relieving employers from most of the obligations they have to their permanent employees" Roback points out. "Therefore contractors are entitled to charge a premium for their services, as they are never guaranteed a continuous flow of work in the future."

Government officials seem to be stuck in a philosophical mindset that cannot accept that anyone who works at a desk with a computer can possibly be providing a service. "They seem to think that unless you wear an overall and have a box of spanners, you must be in conventional employment. We have tried on many occasions to persuade them that the vast majority of professional contractors make a lifestyle choice to provide services to end-users, rather than pick up a monthly pay cheque."

JSA Survey Shows that Most Contractors are Satisfied

JSA's recently published annual Contractor Expectation Survey revealed a generally high satisfaction rate with contracting, with only 18% of respondents saying they would like to return to full time PAYE employment. On a scale of 1 (being very unhappy) to 10 (being extremely happy) as a contractor, 77% rated themselves at 7 or above.

“ Treasury Officials seem to think that unless you wear an overall and have a box of spanners you must be in conventional employment ”

Barry Roback - JSA Group

"We have explained over and over again that they are not employees, but self-employed contractors," he continues, "and that they expect to be called in by organisations, only when their expertise is needed for a specific, short-term reason. They do not want or expect the protection offered by full time employment, but they are entitled, in exchange, to be accepted by courts and legislators as service providers and be treated, in taxation terms, accordingly. Government officials find it hard to accept that contractors enjoy the different challenges and, variety of clients work they work for."

"The UK's economic success has been built on a flexible labour market, and it is hard to fathom why the Treasury is so determined to undermine this advantage. It is vital, therefore, that there is a commitment from the Government not to allow employment rights to intrude into commercial relationships," Roback adds.

"Therefore it is up to contractors, agencies and end-users alike, to defend their corner and call a halt to the current rash of misguided and mistargeted legislation aimed at the self-employed. The Government must be persuaded, for once and for all, to define in law what it means by self-employment. If it does not, we can expect son and grandson of IR35, and no doubt several siblings into the bargain!"

Published: Thursday, March 15, 2007

[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 Guides:

- [Setting up a limited company for contracting](#)
- [What is IR35?](#)
- [IR35 Rules: How to determine if your contract passes IR35](#)
- [Limited company or umbrella – deciding on a payment structure](#)
- [Moving From An Umbrella to a Limited Company](#)

Related Calculators:

- [MSC Legislation Calculator](#)
- [IR35 Calculator](#)
- [Contracting To Permanent Calculator](#)

Related Internet Links:

- [JSA Group](#)



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

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