

Contractors can get redress from revenue attacks

In the past five years we've seen a series of laws from the Treasury that effectively attack the contracting industry. We've seen [IR35](#), the [managed service company legislation](#), and now, in the latest Pre Budget, [a promise to attack the way in which we share income with our spouses](#).

Ill-Drafted Laws Hard To Enforce

"All of this small business legislation has one thing in common: it's ill-drafted and that means that the Revenue has had and will have in the future great difficulties in enforcing them," says Bill Dodwell, a tax expert with the London-based consulting firm [Deloitte](#). "There are fundamental conceptual issues in this legislation that the Treasury has not addressed, and this makes it difficult to enforce the legislation." Dodwell points out.

You Go To Court

What this means is that, if the Revenue decides to seek you out as having crossed the line in one of these vague categories in the ill-drafted legislation, you have a good chance of receiving compensation if you go to court. Of course, the fight is a hard and expensive one; going to court in the UK means spending at least £5000 - £10,000 on legal fees.

But if you know the law--and read this site to obtain detailed knowledge of what's okay and what isn't--you have a chance to win and get your costs back.

Half A Million For Arctic Systems

The most famous case of this kind is the recent [Arctic Systems](#), in which the Revenue mounted a brutal attack against Geoff and Diana Jones who were [dividing up dividend](#) income strictly according to the lines that had been set by the Treasury in the past.

The Revenue lost, and now, as the London-based [Professional Contractors Group](#) has announced, the Revenue will have to repay about GBP 500,000 in legal fees to both the couple, Geoff and Diana Jones, who were the subjects of the attack, and to PCG which supported the couple's six-year legal battle. The total amount under dispute: GBP 7000. As Conservative MP Mark Prisk complained: "One can't help but wonder if this case and its associated costs do not starkly illustrate the gap between the Revenue and people who are trying to run small businesses properly and efficiently."

Another Attack

This gap is one that the Treasury gave further illustration to in the Pre Budget with the promise of new measures to attack dividend income sharing between spouses, which the Treasury calls "[income shifting](#)" --it's a revenge for Arctic Systems. So we will now see tax inspectors across the nation trying to apply another ill-drafted law. This particular provision will attack a much larger group than IR35 or the managed service company provisions though; it will affect most of the 50 million small businesses in the country.

What To Do?

What should you do if they seek your business out? The best medicine is preventive, of course, and if you, like Geoff and Diana Jones, had good advice when you set up your company, you won't run much risk.

But like that couple, you can be subject to attack even if you are compliant. So pull out the stops, and go see a specialised law firm or an expert (PCG offers good references for these). If your advisor says you have a good chance of winning, then put up a good fight. It will cost a good deal, but you will eventually be able to recover your costs.

And the tax man will almost certainly never trouble you again.

One point to be aware of: to recover costs, you must take your case to the courts, not to the HMRC Special Commissioners. This would be wise anyway, because, as the tax insiders will tell you, the Revenue only goes to the Special Commissioners when they are fairly certain to win.

The Revenue has only won a few cases under IR35. We are all waiting to see if HMRC can win any at all under the managed service company legislation. This coming provision on income shifting is even more challenged: no one knows how to define the role a spouse must play to be worthy of dividends.

"Fight it, and the regular rules apply which means you get your costs back," says John Kell, policy director at PCG.

“ This badly drafted legislation is difficult to enforce ”

Bill Dodwell-Deloitte

“ Fight it and the regular rules apply which means you get your costs back ”

John Kell-PCG

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