

Getting down to the details in income shifting for contracting

There's no use complaining about the new [income shifting proposals](#) from the Treasury. So what can we do about them?

Legislation Will Be Passed in March

Although a [consultation document](#) has been put out to explain income shifting-- in which two shareholders in a [limited company](#) share [dividend](#) income, and the higher earning partner 'shifts' income to the lower earner to limit tax exposure-- the Treasury isn't interested in discussing the right or wrong of this proposal. Every single tax expert and tax organisation has already announced that the proposals are ill-drafted and unworkable. The London-based [Professional Contractors Group](#) is circulating a [petition](#) among contractors asking that the legislation be removed.

"But the Government is going to pass this legislation regardless of all the protest," says [Simon Sweetman](#), an expert on tax law based in Felixstowe. "So it is best to try to understand it and to find ways to work with it."

To Whom Does It Apply?

One of the most unappetising characteristics of this law is that it only attacks small business. Income shifting isn't profitable after a certain level of income, so only small family businesses will suffer. To see how and whether or not it will affect you, please use our [Income Shifting Calculator](#).

Four Conditions

There are four basic tests to apply to your company first to see if it will affect you: All four conditions have to be met before it is necessary to do anything. This concerns Individual 1 and Individual 2, but Individual 1 is the heavy earner here.

1. Who is the decision maker? Individual 1 is party to, or has power over the "relevant arrangements": can Individual 1 decide or secure how the profits from the business are distributed?
2. Has Individual 1 given up a portion of income for a year and that income is 'shifted' to Individual 2 whose role in the company is distinctly a minor one? (this is the most difficult part to determine)?
3. Is Individual 1 running the company?
4. Is the shifted income part of dividend distribution or partnership profit?

“ The Government is going to pass this legislation regardless of all the protest so contractors need to learn to work with it ”

Simon Sweetman

Defining the Roles You and Your Partner Play

If these conditions apply to your company, you need to think very hard about the roles that each of the partners plays in making the company work. The Revenue has come up with some absurdly stilted examples in which one partner effectively does nothing while the other does all the work.

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