

## Brown's attack on contractors could backfire

The text of the new legislation on managed service raises many issues which may have to be resolved in the courts, according to several experts who commented on the new law announced in the 2007 Budget. And the entire strategy of attacking contractors raises many questions.

### Treasury Burnt by the IR35 Fire

"These latest legislative attacks on contractors could prove a spectacular failure given current market conditions," says Dave Chaplin, CEO of [ContractorCalculator](#). "Brown has stoked the IR35 fire again at a time when it could result in the Treasury itself getting burnt."

Chaplin explains that at the last boom time in 2000, the market demand for contractors was so intense that agencies were doing everything they could to ensure contractors were outside IR35. Contract positions were even being marketed as being 'IR35 Compliant.' Today, market demand for IT contractors has returned to the same levels as in the dot com boom, with contractors earning even more now than they did in 2000. With 7 years experience battling IR35 the market is very efficient at sorting out contractual agreements to ensure they don't get caught, and contractors are now again being able to pick only those contracts that comply."

The net effect of the Government's policy, Chaplin points out, will be to drive up the cost of using contractors, while effectively reducing the tax revenue earned from them. That's not a policy which is likely to earn the billion pounds of extra revenue that the chancellor is expecting, Chaplin adds.

### The Issue of Control

Contractors should realise that under the new legislation, personal service companies could be included, as Barry Roback, CEO of the Watford-based JSA, a accounting firm which specialises in contractor issues, points out.

"If the control of the company is not in the hands of the contractor, the personal service company could well fall under the provisions of this text," Roback points out. "The issue of control is crucial and contractors should make certain that they are running their own companies."

Indeed, John Kell of the London-based [Professional Contractors Group](#) warns that the changes will make it even more difficult for existing scheme providers to avoid the rules by giving their contractors personal service companies: the PCG advises contractors currently with MSCs to use a limited company or a high quality umbrella, or else risk becoming part of a test case.

Phil Richards, CEO of the Tamworth, Stafs-based professional services company [Manager Group](#) puts it in a nutshell: " You have to be in business for yourself, and to take the responsibility for that business. Then you are outside this legislation. If you use support services like an accountant to do your taxes it changes nothing, so long as you run the business yourself."

### Accountants and Service Providers

Roback goes on to make another important observation: "The text that refers to the involvement of accountants and service providers is not perfectly clear. There is no statutory definition of an accountant, and certainly not one of a service provider. Those who like our company [JSA](#) are chartered accountants would seem to clearly be excluded, but many firms are not and they could be included."

There are many issues that derive from this new text and we will be discussing them here in the coming week. You can keep informed regularly by subscribing to our [NewsCast](#).

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ContractorCalculator

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Dave Chaplin is a former IT contractor in the City of London, and is founder and CEO of ContractorCalculator, and author of the Contractors' Handbook.

Started in 1999, ContractorCalculator (this site) is the leading independent website for the UK contracting industry – most of whom are highly skilled knowledge workers. [Read Full Profile...](#)

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