

## Setback for family businesses as arctic systems loses s660a case

The [Professional Contractors Group](#) (PCG) has learnt today that Geoff and Diana Jones of Arctic Systems have lost their landmark Section 660A case, which was heard by the Special Commissioners of Income Tax in June this year and supported by [PCG](#). The decision was not unanimous; the view of the senior Commissioner prevailed by way of a casting vote.

Expressing surprise at the judgment, PCG chairman Dr Simon Juden said, "This result adds to the uncertainty and confusion surrounding the taxation of family businesses. If two highly expert Commissioners of Tax cannot agree on a case such as this, it is hard to see how a small business is properly to assess its own tax bill. We are naturally deeply disappointed at the outcome of this important case and concerned about the implications for other family businesses, consultancies and partnerships. We believe the current application of Section 660A to be incompatible with the concept of self-assessment, and the principle of independent taxation of spouses. This result is bound to make a lot of people think twice about spreading their wings and starting a family business."

Section 660A, known as the "settlements legislation", has been around since the 1930s. It is wide-ranging, and deals with situations where income arises from something, such as shares, given by one person to another. This is called a "settlement", and the aim of the legislation is to stop people settling their income on another person who pays tax at a lower rate.

"[PCG](#) is determined to achieve clarity in this matter," Dr Juden continued, "and we are urgently seeking expert legal advice and examining possible next steps. We remain committed to supporting family businesses and passionate about the right to transparent and easy taxation at a fair rate for people who choose to work for themselves. We believe that where families share risk they should also be able to share reward."

Geoff Jones said, "We are of course very upset about losing this case, but Diana and I would like to thank [PCG](#), not just for its financial support, but also for all the moral support from its members and directors. Being a [PCG](#) member means not having to face the authorities alone. I'm sure that many people just give up when faced with an Inland Revenue demand, however unfair or incorrect it may be."

The dissenting Commissioner, Ms Judith Powell, found in favour of the Joneses; however Dr Nuala Brice, who was presiding, found for the Revenue and as chair had the casting vote. The case was presented on the Jones' behalf by Malcolm Gammie QC, an eminent tax expert, assisted by Dave Smith of Accountax Consulting, who is a Fellow of the Chartered Institute of Taxation. Mr Smith said, "This is arguably the most important tax case of the last 20 years. Accountax and [PCG](#) have a strong track record of defending small businesses together, and we will examine the judgment closely before coming to a view on the best way forward."

Source: [PCG](#)

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