An Introduction to S660A

What is S660A?

S660A is part of the so-called “settlements legislation”, which was first introduced in the 1930s. Its aim is to prevent someone characterising their own income as someone else’s in order to pay less tax on it and HMRC has been seeking to apply it to freelance contractors and consultants when:

- There is a limited company (or partnership)
- Ownership is shared with someone else (eg a spouse)
- The freelancer is the sole or main fee-earner
- The other owner receives dividend or profit share

Many freelance businesses, under advice from their accountants, operate precisely this structure. Typically, when assessing liability, the Revenue seeks to go back six years, which can result in a tax assessment of over £40,000.

Currently, this interpretation is not valid in law. The Court of Appeal supported PCG’s arguments and rejected the Revenue’s stance in the case of Arctic Systems in December 2005. HMRC is currently seeking leave to appeal the case to the House of Lords. PCG will again support the owners of Arctic Systems, Geoff and Diana Jones, in defending themselves.

PCG Position

PCG’s position is that HMRC is wholly wrong, both morally and in law, to attack family businesses through the settlements legislation and especially where retrospective tax is sought.

It is the clear view of virtually every taxation professional to have written or commented about this issue that HMRC has changed its stance on this matter, despite its protestations to the contrary. The Court of Appeal agrees, and in December 2005 Lord Justice Carnwath said: “The Revenue’s position in this case seems to me a significant extension. For the first time, they seek to apply the concept to what has been found to be a normal commercial transaction between two adults, to which each is making a substantial commercial contribution…”

PCG is also deeply alarmed at the extreme difficulty of calculating a tax liability accurately under self-assessment regimes where detailed guidance is not available, and where tenuously defined concepts such as “commercial salary” are referenced. A self-assessment regime requires consistency, clarity and common sense. HMRC’s stance on S660A is devoid of any of these qualities, as well as being unlawful.

PCG Protection against S660A

PCG has collaborated with leading tax professionals Accountax Consulting to develop SARA - an online diagnostic tool which enables freelancers reliably to assess their risk of challenge under S660A. SARA is available to PCG members at a heavily discounted rate of £25.

PCG's Guide to S660A, available to members only, includes full background information, details of the current legal position of S660A, tips on how to minimise your exposure and details of how to calculate the amount of tax that would be due if S660A applies.

The Professional Expenses Insurance that comes as standard with PCG membership covers the professional fees of leading experts throughout any S660A investigation. Membership also gives you access to free tax and legal helplines, standard contract templates and discounted professional indemnity insurance.