

The Rt. Hon Gordon Brown MP  
Chancellor of the Exchequer  
HM Treasury  
Treasury Chambers  
Parliament Street  
London SW1P 3AG

Dear Chancellor

I understand that you met recently with some of the representative bodies from the small business community to discuss issues relating to their members. The Professional Contractors Group represents the interests of 14,000 small businesses in the knowledge-based sector and we would welcome any opportunity to discuss the Government's policies in this area and how they affect our membership. We would ask that we are considered as a participant for any future such events.

On behalf of our membership we would ask you to give consideration to one particular issue in your forthcoming Budget. Any business, small or large, wants to operate in an environment of certainty. It is the Government's responsibility to provide that environment. However, the introduction of IR35 has meant that tens of thousands of small businesses in the knowledge-based sector cannot plan for the future or make commercial decisions as they are unsure where the boundaries are.

While we might disagree about the principles behind IR35, there can be no dispute that the practicalities of implementing IR35 and operating within it have led to an unacceptable degree of confusion. Four High Court judges, tens of thousands of small businesses, accountants and their representative bodies, lawyers, the FSB, the CBI, the IoD and even Inland Revenue staff have been critical of or confused by the uncertainty of trying to operate with IR35.

Recently, the Revenue made changes to the car tax provisions in the legislation as one minor amendment, after various bodies, including the PCG, had pointed

out the anomaly and the confusion of this particular provision. But this 'sticking plaster' approach does not give small businesses confidence to grow.

In December 1999, PCG wrote to the Paymaster General to outline our concerns about the future. Unfortunately our predictions are now a reality. Then we said:

*The knowledge-based sector has evolved during the past two decades. Despite Government claims to the contrary, it is a matter of fact that case law has not evolved due to the manner in which the sector operates. Knowledge-based contractors are in a vacuum. The Government is asking them to weigh something and has given them a ruler to perform the task. Comparison between knowledge-based workers such as web designers or off-shore workers, and skill-based workers such as carpenters or plumbers only serves to highlight the problem and the Government's lack of understanding of the flexible economy. Case law will evolve and will eventually come to reflect this modern way of working. In the meantime, fear, uncertainty and doubt will force many legitimate small businesses to close."*

IR35 was ill conceived and poorly drafted legislation. There is considerable confusion at many levels:

- The lack of relevant case law to determine status is leading to conflicting decisions;
- Small businesses are operating without certainty - even the Revenue's own guidance recognises a situation where the status is unclear;
- Despite this acknowledged climate of uncertainty, there is still the threat of penalties if the contractor gets it wrong;
- Accounting and legal experts are unable to find common ground;
- IR35 causes confusion as it corrupts the traditional boundaries between personal and corporate taxation;
- The creation of an artificial person, that of a 'disguised employee' where the contractor is deemed to be an employee for one purpose (tax and NI) but not for another (statutory and discretionary benefits)

We have campaigned vigorously for this law to be repealed, but, to date, our calls and those of other reputable organisations have been ignored. Each week we come across examples of genuine businesses who cannot continue to operate in this climate of uncertainty.

I would ask you to consider your role and responsibility in providing an environment of certainty for small businesses to grow and operate with

confidence. As the representative body of this sector, we remain ready to assist with this process.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jane Akshar', is written over a horizontal line. A vertical line is positioned to the right of the signature.

Jane Akshar  
Chairman

March 27, 2002