



Patron: the Rt Hon the Lord Weatherill DL

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Ms. Dawn Primarolo MP  
Paymaster General  
Treasury Chambers  
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6 September, 1999

Dear Ms. Primarolo,

We understand from press comments that at least one secret meeting has been held recently at which alternative proposals have been released to certain of the representative Groups which have been commenting on the IR35 proposals. We quite understand informal meetings might be held with Industry tax experts ahead of a consultative document being issued, but these meetings would appear to be of a very different nature. The representative bodies which were apparently included lacked any representation from the small businesses which will be most affected by the proposals.

The Professional Contractors Group has over 3000 members from engineering and IT which form the core of the knowledge based contracting industry. We have repeatedly offered to help in a proper consultation process but apart from a meeting with the Inland Revenue on 10 June (from which no minutes have been forthcoming) our efforts to help construct effective legislation to address real issues of concern have been ignored. Your approach appears to be in direct contravention of the Better Regulation Guide which states that those affected should be consulted. In addition it hardly demonstrates a transparent approach to Government.

To date we have only been asked to comment on a 7 page letter issued by the Revenue on 23rd April. In this document it was stated. "The vast majority of businesses do not avoid tax and national insurance in this way and so will not be caught by the new rules". However, from information released in the RIA on 10th June this is clearly not true. From your department's own figures and criteria it has been confirmed that 9 out of 10 businesses in the Knowledge based sector, who would be affected by the new rules, do not avoid tax and National Insurance.

We responded in detail on both the original letter and on the RIA. We also attended the meeting on 10th June. To date we have not received any feedback or requests for further information. We have not been asked for alternative proposals. Our requests for a genuine Consultative process have apparently been ignored and one wonders how many other secret meetings have been held at which alternative proposals have been discussed without those who would be directly affected being present.

The Revenue argue in IR 35 that worker's rights are being abused. A significant number of our members know from first hand that protection of workers rights is an illusion when they are made redundant in their forties and fifties. The only way they can provide for themselves and their families, without becoming a burden on the State, is to start their own business. They start it with the only asset they have; their knowledge. We have other members who were not forced to start their own business, but chose to do so for sound business reasons. Whilst these businesses were not represented at your meeting we understand that representatives of

big business were present. Some of these large businesses are amongst those who have been using the existing legislation to lay off workers on a Friday to re-employ them on a Monday through a limited company.

IR 35 states that the Government is committed to achieving a tax system under which everyone pays their fair share. Our members agree with this. We have carried out an analysis of one of our larger competitors based on accounts filed at Companies House. From these we have seen that a larger consultancy like EDS has contributed proportionately less in income and corporation tax than our members.

It seems ironic that our members were not represented at your meeting although we understand that companies like EDS were being represented. We also note that it has been reported in The Times that EDS were amongst those who originally lobbied for the IR 35 proposals. Not only would IR 35 strengthen the competitive advantage of companies like EDS it is apparent that EDS's contract with the Inland Revenue would also result in them gaining more fees from further work to implement the IR 35 changes. This suggests that not only are you not undertaking a fair and proper consultative process you may also be exposing the Government to charges that tax proposals are being implemented which are aimed at benefiting a few large international companies at the expense of many small British entrepreneurs. You will understand, therefore, why this is perceived by our members as proof that this is an absolute mockery of a "Consultative" process.

The majority of our members work through their own limited company. They do not use or approve of the use of the Composite umbrella companies which many workers who are victims of the Friday/Monday syndrome are forced to use. Our position is that the use of a Composite Company is not recommended. Legal advice (which we have published) states that there are "so many fundamental shortcomings that we felt that no one who researched the issues fully could possibly recommend that a person should trade through an umbrella (Composite) company."

Once again while our members were not represented we understand that representatives of the industry's professional advisers were present. Some of their members have been actively promoting such tax avoidance vehicles and using their membership of these reputable bodies to give credence to their activities.

The members of PCG accept that there are issues which need to be addressed. These include the use of Composite umbrella companies which represent a wholly artificial device to circumvent employer's and employee's NIC. We also agree that the issue of workers being forced into using personal service companies, resulting in the Friday/Monday syndrome is patently wrong and should be dealt with.

Having met with many of the other representative bodies we believe they also accept that there are areas of abuse as outlined above and would be receptive to a request, during a consultative process, that they be given the chance to solve this problem through self regulation. We would certainly support that. Self regulation would be in line with the Better Regulation Guide and we note the following from the Prime Ministers introduction:

"it is vital that Government regulates wisely. If our regulatory framework is excessive or poorly conceived, we all suffer from the resultant red tape. The intended benefits of regulation disappear, often to be replaced by less choice, higher prices and lower employment and investment. This can be particularly damaging to our small firms."

We have sought to ensure that the Government is totally informed on the way we work in the knowledge based sector. As this area is clearly under researched we have commissioned academic research from Professor Burton, of Birmingham University and his report will be available shortly. If the Government choose to ignore this research and our reasoned approach we will draw the inevitable conclusion that this measure had more to do with raising tax and benefiting certain favoured large companies than promoting fairness and protection of workers rights.

Once again we strongly urge you to engage in an open and extensive consultative process which includes representatives of the many small businesses your proposals could severely damage. As we have stated frequently we agree that there are abuses which need to be addressed and we would be happy to work with you. Only in this way can you be certain of achieving your objectives, many of which we support, in a way which is proportionate to the issues involved and in a manner which accords with your own guidelines on Regulation.

Finally we note that this issue has attracted more and more media attention and large postbags for MPs and Ministers - and this after only a few months. We are confident that any ill considered action that results in thousands of "genuine businesses" having to close down next year will result in a significant and long term loss of support for your party from a group of people who broadly supported you at the last election. That such measures will actually reduce the amount of tax raised, damage the enterprise culture and lead to erosion of our ability to compete in the Knowledge based Global Economy will come to be seen as a monumental mistake. If such a mistake is made without there having been proper consultation, history shows that it is Ministers and not their officials who generally suffer the consequences.

Yours sincerely

David Ramsden  
Director

<http://www.ir35update.co.uk/>