

COMPOSITE COMPANIES UNDER ATTACK FROM HM GOVERNMENT

As some of you will know, as a firm we are no great fan of composite companies, which is why we've never offered composites or umbrellas.

It seems were not alone – although the reasons may be different – and Gordon Brown and colleagues have some issues as well.

In the budget report, Chapter 5, “Building a fairer society”, page 20, items 5.85 and 5.86, we read:

“5.85 Since the Pre-Budget Report, further evidence has emerged that employment income is being disguised as dividends in order to take advantage of the small companies' tax rate, often encouraged by promoters of mass-marketed managed service company schemes. There is also evidence of some agencies, contractors and employers requiring workers to use corporate structures, thereby denying them employment rights as well as avoiding paying their fair share of tax and NICs.

”5.86 The Government believes that all individuals and businesses must pay their fair share of NICs and tax, irrespective of legal form. It will continue to review the tax and NICs systems to ensure that this is the case and will bring forward proposals for discussion that are consistent with simplicity for compliant businesses, support for businesses in their aspirations to grow and maintaining the attractiveness of the UK as a business location. As the first stage of this review the Government will consult on action to tackle disguised employment through managed Tax motivated incorporation.”

http://www.hm-treasury.gov.uk/media/20F/02/bud06_ch5_180.pdf

So is this anything to worry about?

Yes, for users of composite companies – HMRC are of the view that many composite companies do not pay enough attention to IR35, the rules on travel & subsistence or their general tax obligations – and from what we see in the market, we are inclined to agree. Whether all composites are in HMRCs sights, or just the provocative ones who use offshore arrangements, EBTs, and other exotica, we wait to see.

No, for users of individual personal service companies – this is not an extension of IR35, nor another attack owners / users of personal service companies – and if you are a client of ours, that will be you.

Umbrella companies are unlikely to be affected as, in the truest sense of the word, an umbrella company is a paye only arrangement, effectively operating IR35 rules anyway.

As you may be aware we are currently looking at setting up Composite and Umbrella offerings within the firm. Pre emptying this announcement, our plans were not to use a traditional composite structure, but to use a individual managed rental company structure – this would be very akin to a traditional PSC, albeit managed for the contractor. As such it would be fall into the definitions above. If you have colleagues who are using composite companies and are worried about the future, then please let them know that we have these solutions coming on stream.

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