

IR35 PROCEDURE

From 6 April 2000 the Inland Revenue have the power, under the so-called IR35 procedure, to alter the taxation of your incorporated company or partnership in certain circumstances. These circumstances arise where the Inland Revenue can demonstrate that, in the absence of a company or partnership, the individual contractor would be regarded as an employee of the client company. The test the Revenue will centre on:

Right of Control

- Has one party agreed, expressly or completely to be subject to the other party's control in a sufficient degree so as to make that other party master?

Integration

- Are the services being provided as an integral part of the client company's business?

Economic Reality

- Is the person who had been engaged to perform services doing so on his / her own account?
- Does he / she provide his / her own equipment?
- Does the person have the right to replace his own labour with someone else?

Should the Inland Revenue determine IR35 is in point then the following will apply:

- If, at the end of the year, the total salary drawn by the contractor from the company is less than the total income of the company, the difference (net of expenses described below) will be deemed salary due on 5 April. As such PAYE and NIC will be due.
- For partnerships the gross receipts (net of expenses described below) will be deemed salary due on 5 April. Again PAYE and NIC will be due.
- The allowable expenses are:
 - o Qualifying traveling expenses and those expenses wholly, exclusively and necessarily the performance of the duties of employment.
 - o Any employer's pension contributions to an approved pension scheme
 - o A flat deduction of 5% of the turnover of the business to cover running costs.
 - o The amount of employer's NIC paid or deemed paid during the year.

Further details can be found on the Internet at www.hmrc.gov.uk/IR35/index.

If you are in any doubt as to how to judge how you will be affected by IR35 you should seek professional advice from a qualified accountant or chartered tax adviser.

The above does **not** affect THG's ability to pay the contractor company gross. THG will continue to pay the Company (Ltd or Partnership only) without deduction of tax or NIC.

If at present you are unincorporated but would like to explore the possibilities of either incorporating or trading as a partnership you could approach either your own professional adviser or our adviser Ashcroft Anthony. The contact is Adrian Wilson, Tel: +44 (0)1763 209113 or email Adrian@ashcroftanthony.com. He will be able to guide you through the company formation, tax advice and planning, and certificate of incorporation (normally a two to three week process). He will also run through the costs and fees for establishing a company or partnership.