

News from the BBC to concern freelancers

Last week we reported that *The Sunday Times* 27/09/09 had focused on which 'tax breaks' might disappear by whichever party forms the next government and at risk was thought to be the favourable tax rates for the self employed who trade through companies where profits are less than £300,000.

A week later and the Sunday papers have announced that BBC presenters are setting up companies to avoid the new 50% rate of tax which comes into force next April. Some household names are potentially saving more than 10 pence in the pound making incorporation extremely lucrative for them, but also saving the BBC 12.8% Employers NIC into the bargain.

The story has drawn fire from politicians, but strangely it has been the BBC rather than the presenters that have been in the politicians' sights. One paper has suggested that HMRC advised the BBC that some of its self employed presenters either needed to "go onto the books" as employees or set themselves up as service companies; but more credibly another establishes that HMRC is very concerned about disguised employment and that it targets the freelancer market.

And this is why freelancers should be concerned: if the Revenue decides that this presents a real opportunity to recover lost tax from presenters using service companies and it is successful in proving its case, then why would the taxman restrict himself just to high profile taxpayers? The many freelance journalists, writers, producers and providers of programme-making services are likely to be tarred with the same brush. Furthermore, why should HMRC restrict their enquiries merely to the entertainment industry?

One keeps returning to the view that stories like this will encourage HMRC to either re-energise their IR35 campaign, or lobby the (next) government for wider powers. Certainly, the opposition politicians quoted seem to be approaching this news with gusto, sensing there might be votes to be had if they can show that the general public are needlessly paying for the tax savings of the rich and famous.

So if HMRC renews its attack on the freelancer sector, then, as we made clear in our last article, it will be important for the freelancer to be able to demonstrate their self employment. The arguments will continue to revolve around whether personal service is being provided, whether the engager has a right of control over the worker and whether mutuality of obligation must exist. However, factors like demonstrating that one is in business on one's own account and the intention of the contract will also play a part in determining status.

If freelancers (or their accountants) wish to check whether the engagement(s) which the contractor is or has been undertaking are contracts for services (self employment), then please visit our [Contractors section](#) for more information about Abbey Tax's contract review and tax losses insurance services or call us on [0870 607 7000](tel:08706077000) for further information.

