



The voice of freelancing

PCG

Heathrow Boulevard, 280 Bath Road,
West Drayton UB7 0DQ

t. 0845-125-9899

f. 0845-644-4105

www.pcg.org.uk

Rt Hon Alistair Darling MP
Chancellor of the Exchequer
HM Treasury
Horse Guards Road
London SW1A 2HQ

28th October 2009

Dear Chancellor

I am writing on behalf of the Professional Contractors Group (PCG), the cross-sector representative body for the estimated 1.4 million freelancers in the UK.

As I am sure you are aware, all of PCG's members take on business risk and supply their services to a range or succession of clients. They therefore represent the flexible, skilled, knowledge-based workforce on which the UK's future prosperity depends. They provide IT, engineering, project management, marketing and other functions in sectors including financial services, telecoms, oil and gas, and defence.

It is with this in mind that I wish to venture a number of points for your consideration ahead of this year's Pre-Budget Report.

I fully appreciate that the demands made upon you from all sides will be extensive, even more so than usual, as we all have to face up to the longest recession since the Second World War.

Freelancers, by their very nature, are unfortunately amongst the first to suffer in a downturn. Survey data which we have obtained indicates that the number of freelancers currently in contract has fallen by approximately 12%, and that turnover for the past 12 months has decreased by around a third. However, I do not wish you to react to these statistics by thinking you must provide more financial support to those unfortunately without work, but rather to concentrate your efforts on how you can help to release the potential of this wide pool of talent by lifting some of the heavy burdens which freelancers bear.

For example, I observed with interest that the Department for Business, Innovation and Skills has taken the decision to put back the implementation of the Agency Worker's Directive to October 2011, a move that gives businesses the time they need to adjust to regulations which had the potential to be seriously damaging to freelancers, if they were ill understood and poorly implemented by clients.

In light of this decision, it is particularly noticeable that the largest single impediment to freelance working in the UK, the Intermediaries Legislation ("IR35") remains in force. In the interests of the economic recovery, we urge you to repeal it as a matter of urgency.

We know from past statements by ministers that IR35 is not known to be a revenue-raising measure: it is not at all clear that such monies as it raises in extra tax offset the considerable expenditure by HM Revenue and Customs in pursuing the many fruitless enquiries known to us.

IR35 creates massive and crippling uncertainty for freelancers, who are unable to self-assess their tax liability under it with any confidence. The effort and money expended in attempting to deal with this would, we believe, be better deployed in generating further wealth for the UK. Our survey data has shown that IR35 is seen by PCG members as more significant than any other problem currently facing the marketplace, bar the current downturn, by a considerable margin. IR35 investigations frequently take over 5 years to complete, indeed 46% of those surveyed who had been investigated found this to be the case, clearly an unacceptable figure, especially considering that in the vast majority of these cases, no additional tax was found owing.

It is also sadly true to say that IR35 has damaged relations between law abiding taxpayers and HM Revenue & Customs. This is a state of affairs which no one wishes to see perpetuated, and which can easily be addressed if this aggravating factor were to be removed through legislation. Indeed, our own survey data shows just 4% of our members find HMRC transparent, and 74% of those investigated for IR35 felt intimidated by HMRC.

While we agree with the diagnosis that “disguised employment” can be a problem for the UK’s workforce, we submit that it should be addressed through reforms to employment status law, and not through tax law. We have discussed this with your officials in the past and would be pleased to hold further discussions.

In light of the Government’s long-stated support for flexible labour markets we trust that you will agree that the time is right to remove the burden of IR35 from the UK economy.

I would also like to draw to your attention another unfair constraint currently placed upon those who choose to work freelance - the practical ability to choose the right business model is currently limited. It is clear from our own research that many freelancers would prefer to be sole traders, rather than, for example, working through a private limited company, but are not currently able to use this form. This is principally due to the tax rules in place (s44-7 Income Tax (Earnings and Pensions Act) 2003), which make it impossible in practice for agencies to pay freelancers gross unless they have a legal form. PCG would like to see this measure abolished: it is a clear example of a tax measure distorting market behaviour, contrary to the Government’s own express desire that the “tax tail” should not “wag the business dog”.

Finally, we welcomed the decision in last year’s Budget to again postpone the introduction of legislation regarding “Income Shifting”, but we reiterate that it is essential these proposals are dropped completely with immediate effect. Treating jointly-owned businesses any differently to other businesses is iniquitous and unfair. These proposals fail to take into account the shared risk and responsibility involved in running a business, and would harm thousands of such enterprises.

Overall, there is considerable scope for the Government to address the needs of the UK’s freelancers. The current legal and regulatory framework does not offer freelancers a fair deal. There is no scope for complacency, and I very much hope that these issues will be addressed with urgency in your Pre-Budget Report.

If I can be of any assistance on the matters which I have raised here, please do not hesitate to have your officials contact me.

Yours sincerely



Chris Bryce
Chairman