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Date 29th Sep 2003

Our ref [REDACTED]

Your ref [REDACTED]

NI number

Dear [REDACTED]

Re [REDACTED] Limited

With reference to your letter dated 07 July 2003, addressed to the Inland Revenue IR35 Unit in Gateshead, regarding the IR35 opinion given by them on the above Company.

As you are aware from our recent telephone conversation this file has been passed to me for further IR35 evaluation, having now fully reviewed the Contract and the content of your letter my findings are as follows:-

Control:- Although there is a degree of control within this contract, relating to the hours/days worked there is no obvious control in how the tasks are actually processed or a clear reporting line, apart from timesheets which is standard practice in these sort of relationships, I therefore feel that this falls **Outside IR35**.

Basis of Remuneration:- Paid an hourly rate based on the number of hours worked for [REDACTED] this could be a sign of either employment or self-employment it is therefore a **Neutral** factor.

Substitution:- Although no substitution has occurred in practice there is a clear right within the contract under 1.4 which states that [REDACTED] can provide an alternative named consultant, subject to [REDACTED] approval, this is again not uncommon as the end client needs to be sure that the substitute supplied has the relevant skills to perform the task. **Outside IR35**.

Premises:- Schedule 1 states that the location for the performance of the duties was Terminal 5, Longford House at Heathrow it also states that this is 'the prime location when the project requires work at a Client'. Although the work was performed on site this statement does not state that the work must take place at Heathrow, this is therefore a **Neutral** factor.

Financial Risk/ Opportunity for profit/loss:- There appears to be very little Financial risk or opportunity for profit or loss involved due to be paid hourly, the only risk is dismissal due to poor work, however there is the opportunity of correcting said work first (7.3.1) therefore the falls within **IR35**.



Equipment:- Due to the security nature of the work involved it is necessary that work takes place on [REDACTED] equipment therefore there is no scope for supplying own equipment, this is again not out of the ordinary, **Neutral** factor.

Exclusivity:- In the contract under 1.5 it states that the Contractor is able to apply and accept contracts to supply goods and services as long as there is no material diminution in the standard of performance of services to [REDACTED]; this is therefore **Outside IR35**.

Correction of Unsatisfactory work:- 7.3.1 of the contract mentions that the Contractor should remedy problems at own expense within 21 days this is therefore **Outside IR35**.

Right to supply own assistants/labour:- Contract clause 9.6 states that the work cannot be assigned or sub-contracted without permission and that no reason needs to be given for a refusal, this factor falls within **IR35**.

Employee type benefits:- There appear to be no employee type benefits offered, this is **Outside IR35**.

Right of dismissal:- The Contractor can be instantly dismissed for misconduct, this differs from most employment contracts where a warning procedure is followed, it points towards self-employment and so is **Outside IR35**.

Intention of the parties:- Clause 9.4 clearly states self-employment, **Outside IR35**.

Taking into account all of the factors shown above it would appear that although there may be some pointers towards an employment relationship the majority point towards self-employment it is therefore my opinion that this Contract/relationship falls outside IR35 legislation.

Please be aware that this opinion is based purely on the contract and facts made available to me and does not necessarily reflect any future working relationships.

I apologise for the delay in concluding this matter unfortunately this was caused by a reorganisation within this area, should you wish to discuss this matter further please feel free to contact me.

Yours sincerely



Steve E Madden MCBT, LCGI
HM Inspector of Taxes