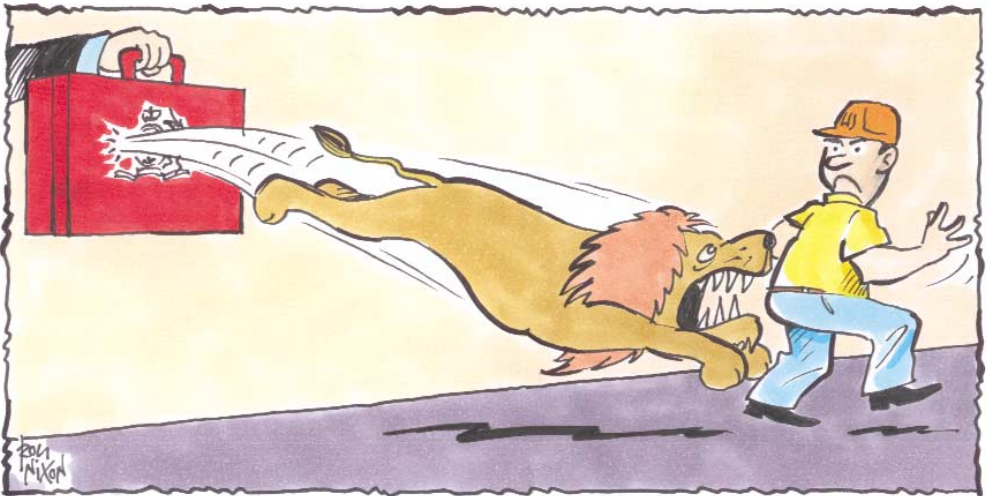




Briefing

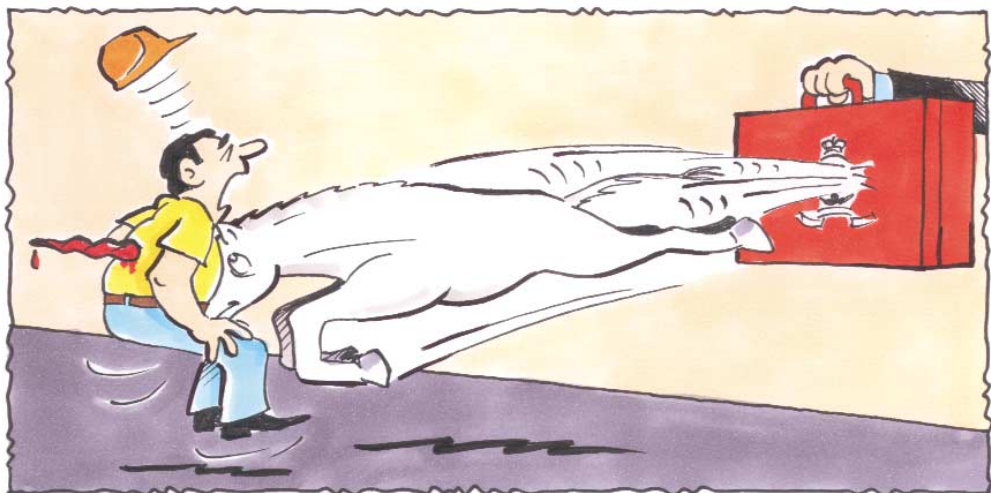
HMRC's "period of grace" is over and the Chancellor's fines are biting immediately!



OVER 36,000 CONTRACTORS WILL GET A NASTY SHOCK THIS MONTH when they receive "late filing" penalties for failing to submit CIS returns on time. The six month penalty waiver period ended on 19 October and, despite many returns being delayed by the postal strike, HMRC wasted no time in raising £8.6 million in

charges. This figure is expected to increase over the next few months with many contractors receiving additional monthly fines for each return still outstanding at that time. Our advice - contractors wishing to reduce CIS administration should engage EEBS and **all contractors should consider moving to internet submission of returns.**

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Don't get skewered by TTQT

- Tax Treatment Qualification Test

A SECOND NASTY SHOCK THAT CONTRACTORS MAY SOON RECEIVE is the application of the TTQT. At the same time as instructing the Revenue computer system to start issuing late filing penalties, it was instructed to start its program of "Scheduled Review of Gross Payment Status". Under the new rules contractors must fully comply with all their taxation obligations in order to retain Gross Payment Status - including both filing and payment of both Tax and VAT.

Receipt of three late filing penalties (a situation in which many contractors already find themselves!) will be sufficient to trigger the system and **loss of status will be automatic**. The period examined will be a rolling 12 months and, with HMRC reviewing around 2% of contractors weekly, they expect to get round to every contractor at least once a year.

For more information visit:

www.hmrc.gov.uk/new-cis/scheduled-review.htm

Employers suffer another "triple whammy"

CONTRIBUTORY PENSIONS

- while we hesitate to say "We told you so" we have been warning unambiguously since 2003 that there could be no reason for introducing non-contributory Stakeholder Pensions other than to put in place a mechanism for mandatory employer contributions in the future.

Sure enough in this months PBR the Chancellor announced that from April 2008 there will be "a duty on every employer to contribute to good quality workplace pensions for employees". No figure has yet been announced, but we expect this to add at least another 3% to payroll burden rising to 7% over time.

THE MINIMUM WAGE

increased on 1 October from £5.35 to £5.52 and will rise again on 1 April 2008 to £5.80. This is an increase of 8.4% in seven months!

...and on the same day (without fanfare and almost by stealth) the entitlement to **STATUTORY HOLIDAY PAY** under the Working Time

Beware New Year crackdown on Employment Status

CONTRACTORS MUST ALSO REMEMBER THAT MANDATORY RETURNS ARE ONLY THE START OF THE PROCESS and that the £8.6m in fines is “small potatoes” compared to the £180m the Revenue estimates it will receive yearly as a result of reclassifying sub-contractors as employees.

From the monthly returns already submitted, the Revenue will have been building up a picture of your subcontractors working patterns and any time after 1 January you are likely to receive an automated status enquiry with regards to any sub-contractor who has shown up on three consecutive returns.

Given that the Revenue has indicated they will not be seeking penalties retrospectively



from those who have “put their house in order” at time of enquiry, many contractors have

decided it will be prudent, to terminate current arrangements with sub-contractors at the start of the Christmas shutdown.

EEBS is then engaging these sub-contractors under new contracts for all work performed after 1 January 2008.

Anyone interested in exercising this option should let us know as soon as possible.

In any event all contractors should ensure they have fully addressed the “status” issue before the 20 January.



of increased costs...

Regulations rose from 4 weeks to 4.8 weeks (ie. 4 weeks and 4 days) an increase of 20%. This is scheduled to rise again to 5.6 weeks by 2009 and will add a further 3.7% to employers overheads.

Together these rises mean that some employers will see payroll costs rise by a

thumping 15% in addition to any increases negotiated at pay review. Even contractors who previously made the decision to convert sub-contractors to employees should seriously consider whether new applicants should not be engaged on a self-employed basis via EEBS.



About EEBS

Established in January '02 EEBS is a revenue approved (gross payment status) labour only sub-contract service. In addition to greatly reducing our clients CIS administration, we provide certainty of employment status. This eliminates exposure to reclassification as an employee either by the Revenue or an Employment Tribunal.

Anyone wishing to know more about our service, or wanting to receive past or future "Briefings" should call 0845 257 3327 or email info@eebs.co.uk

EEBS is NOT a Managed Service Company (MSC)

Many potential clients (and some ill-informed accountants!) have expressed concerns about the proposed MSC regulations.

For the avoidance of doubt:
Our sub-contractors are NOT shareholders and do NOT receive dividends.

Written opinions confirm that the MSC regulations do not apply to our service and **there is NO potential for transfer of debt to our clients.**

HMRC has confirmed in writing that it is not seeking to oppose our business model.

Should you have any concerns about MSC please get your accountant to talk to us directly.



Court round-up

ARCTIC SYSTEMS [2007 UKHL 35] - Having spent over £1/2m of taxpayers money chasing a taxpayer for £7,000 he did not owe, the Government immediately announced it will enact a new law to defeat this House of Lords decision.

REDCATS [2007 IRLR 296] - The Hon. Justice Elias (President of the Employment Appeals Tribunal) confirms that, when considering employment status it is the intentions of a contract that are paramount. **Anyone considering using their own contracts should be certain they take professional advice and that the professional is both insured and undertakes to conduct constant review.**

MARTIN V HMRC [2007 EWCA Civ 1041] -The Revenue has a duty of care, and can be sued, where they have made persistent errors.

NB: It must be noted that while our literature has been prepared with the advice of solicitors and accountants it does not, in itself, constitute legal advice. You are advised to seek professional legal advice before pursuing any course of action.



CONSTRUCTIVE LABOUR SOLUTIONS

tel: 0845 257 3327
fax: 01245 359 500
email: info@eebs.co.uk