

Contractors in construction face 'horror story'

According to the London-based [Federation of Small Businesses](#) expert Charles McKerwn, the new [HM Revenue CIS scheme](#) is a 'horror story.'

"What will happen," says McKerwn, is that the UK construction industry will lose an important number of workers to the shadow market. They will be drifting out of the industry at a time when the booming construction sector needs all the workers it can get."

And to make certain it all results in increased tax funds, the Revenue is trebling the number of compliance officers who cover the construction industry, McKerwn says.

Yet even with the increased coverage, McKerwn does not believe that the tax revenue will actually increase. "It will be [IR35](#) all over again," McKerwn insists.

IR35 All Over Again

McKerwn points out that the UK construction industry has known about the CIS scheme since 2003. "But it kept getting put back under contractor protests," McKerwn says.

But the Treasury has brought the scheme forward anyway, despite numerous objections from trade groups.

Problems with the Scheme Are Serious

"Problems with the scheme are serious," McKerwn continues. "First, the burden of paperwork is terrible yet penalties are quite severe should a contractor fail to comply," McKerwn says. "If you forget to put in the monthly return (which indicates labour income and payments to subcontractors) then there is a fine of 100 pounds. That's a lot for a small contractor."

It Gets Worse

"It gets worse. Even if you haven't worked in a given month, you have to submit a return, and check a box that says 'nil return.' How many contractors are going to remember that? Just imagine the situation of a small contractor whose wife keeps the books: how often are they going to get it right?"

But the truly unwieldy burden is the need to verify the status of all subcontractors as either limited companies or PAYE employees. "This was always the case of course, but the responsibility and burden on the contractor are now extreme," McKerwn continues. "Under the old system, which ended on April 15, there were three categories of subcontractors--CIS 4, CIS 5 or CIS 6. Of these, category 4 were the ones with the largest grey area. Undoubtedly some of them should have been PAYE employees, but others were simply small but genuine contractors. These will suffer the most as they are unable to define their status clearly and risk having clients refuse to take them on.

There will be a tendency to drag everyone in," McKerwn complains.

The Revenue have provided tools to help contractors determine status, and these are helpful, says McKerwn, but not categorical. "You can use them, but the Revenue can still dispute your status--the status tool isn't a sure thing."

But what is truly dysfunctional about the scheme, McKerwn says, is that it doesn't correspond at all to real conditions in the industry. "There are an awful lot of people out there, small subcontractors and temporary workers, who drift in and out of the industry. Many of these work for householders, and then they're not in the scheme at all. But if they subcontract work from a contractor who works for a householder, they fall under the scheme again. It makes no sense."

What should contractors do: "Follow the rules to prove that you are not an employee," says McKerwn. "Use your own equipment; work your own hours; and supply your own materials. All of these are good tests for showing contractor status."

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