

Contractors must fear HMRC's IR35 'interviews'

Imagine the scene: you've been accused of being inside [IR35](#). The judges want to know what happened in your day-to-day work at the client site. So you call up your former manager, and ask for testimony. The manager should be able to say that you only worked on a project and were not in any way integrated with the client company.

Then you discover that HMRC has already been there before you. HMRC has been conducting "interviews" with managers at the client to build its own case against you.

Your former manager, a nice person with whom you had a decent working relationship, is now a bit spooked. The client is pretty worried about further scrutiny from the Revenue in other ways-- not that they necessarily did anything wrong, but HMRC scrutiny takes time and costs money.

So your former manager is a bit reserved about saying what happened when you were working for the client under contract. Of course the manager will tell the truth in court, but...

A Nightmare Scenario

Sound like a nightmare scenario? Well, HMRC doesn't yet have the ability to do this, fortunately. But the Revenue is seeking the right in the upcoming consultations related to HMRC "Powers" in the Budget to be announced on March 12.

Doesn't Even Have To Be Accurate

The London-based [Professional Contractors Group](#) has condemned proposals to give such new "powers" to HMRC, calling the proposal a request for the ability to "snoop." Worst in all this request for "powers" is that the Revenue doesn't even have to do a good job. Information badgered out of clients doesn't have to be accurate! So clients are most likely to say whatever they need to in order to get out of jeopardy. Or HMRC can talk to the wrong person, someone who has no knowledge of what really took place.

John Brazier, managing director for PCG has attacked the proposal. "HMRC often approach end-clients without identifying the right person to speak to, and get unclear and often incorrect information which can be disastrous for the taxpayer. It means the true nature of their working arrangements with a client may not be accurately portrayed in any hearing and the taxpayer has no right of appeal."

Brazier points out that this is particularly important. "In recent IR35 cases which have gone to the Special Commissioners, the results have been strongly influenced by the evidence given by a representative of the freelancer's end-client on behalf of HMRC," Brazier insists.

PCG argues that freelancers should have the option of approaching the end-client themselves, so that accurate information is obtained from the appropriate person. "This is simple common sense and actually benefits HMRC as they wouldn't waste their time and our money dealing with inaccurate information," Brazier says.

There is a perfectly reasonable fear on the part of contractors that this scenario won't lead to a fair hearing. The "catch-all" nature of the proposals will allow the taxman to contact anyone they like and use inaccurate or sketchy information.

"This is an open invitation to snoop and pry and again shows that when it comes to tax, we are all deemed to be on the fiddle," Brazier points out. "Anywhere else in life, we have redress to correct inaccuracies and clear our names - except when it comes to the taxman. This sort of attitude undermines business confidence in HMRC and, sadly, just underlines what our members feel - that despite all its promises this Government has no concept of, nor interest in, encouraging small businesses to flourish in the UK."

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