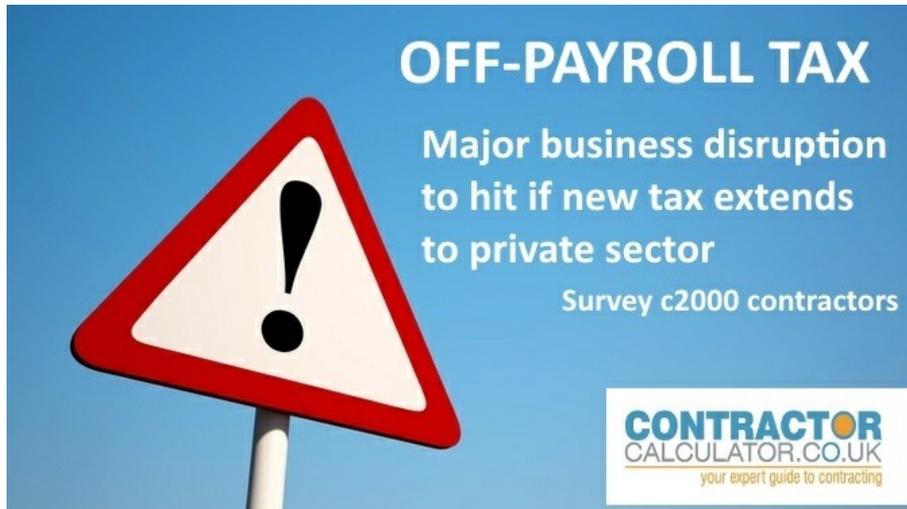


## Survey: Major business disruption if new Off-Payroll tax hits the private sector



UK plc will be subject to disruption to business on all fronts if the [new Off-Payroll tax currently plaguing the public sector](#) is extended into the private sector. Increasing costs, shrinking talent pools, reduced flexibility and legal challenges to status assessments are among the hurdles that firms are expected to have to navigate if the controversial legislation reaches a wider audience.

This prediction is according to a [survey of more than 2,000 public and private sector contractors by ContractorCalculator](#), which has uncovered several startling statistics:

- 98% of contractors either wouldn't consider an 'inside IR35' contract or would only do so with a significant rate rise
- 51% would consider switching career in response to an Off-Payroll expansion
- 94% believe those deemed 'employed for tax purposes' status should automatically receive employment rights
- 89% would at least consider taking legal action to secure these rights
- 99% do not agree that CEST accurately reflected employment status law and 79% do not consider it to be accurate.

"Contractors won't be the only ones losing out if Government presses ahead with a private sector rollout," comments ContractorCalculator CEO, Dave Chaplin. "UK plc will face a major uphill struggle to retain its flexibility and efficiency, and it will have HMRC to thank for it all unless something is done."

### Contractors to stand ground as firms face major recruiting challenges

HMRC is [currently consulting](#) on a wider rollout of the new Off-Payroll tax, which requires hirers to assess the employment status of all of their contractors on a case-by-case basis. Employment status for contractors is commonly referred to as being either 'inside IR35' (deemed employment) or 'outside IR35' (self-employed).

Firms that assess contractors as deemed employees will be liable for more tax, in the form of employer's National Insurance (NI) payments on top of contract rates paid to freelancers. Not only this, but they are also warned that they will likely face severe recruiting challenges, with 94% of survey respondents indicating that they would seek to avoid contracts considered to be caught by IR35.

- 25% claimed they wouldn't consider an inside IR35 private sector contract

- 73% stated they would only do so if supplemented with a rate rise
- Just 2% of contractors would agree to an inside IR35 contract without a rate rise.

The reluctance to accept work within IR35 can be attributed somewhat to the sense of injustice that many contractors feel when subject to employment taxes without receiving the equivalent benefits.

When asked what rights they believe they should be afforded if deemed 'employed for tax purposes', 92% highlighted sick pay, while more than 80% identified legal workplace protection and access to income support when out of work respectively. A mere 6% claimed they wouldn't want any form of rights.

Anecdotal evidence provided by respondents also consistently questioned the lack of logic underpinning IR35 and the Off-Payroll tax. "It is unfair to penalise contractors without granting them employment benefits," commented one respondent. "Why should the self-employed pay more tax and NI than the employed when we get none of the benefits?" added another.

Aligning tax and employment status was a key recommendation within the Government-commissioned [Taylor Review of Modern Working Practices](#). However, HMRC has refused to consider this recommendation in alignment with IR35.

### **Hirers could suffer legal action resulting from Off-Payroll**

The Off-Payroll tax rules may not require firms to grant rights to contingent workers. However, contractors are willing to take measures to secure employment rights if deemed to be 'employed for tax purposes', resulting in potentially costly legal implications for hirers.

- 48% claimed they would lodge an employment tribunal appeal to secure employment rights
- A further 40% said they would consider lodging an appeal.

Momentum is building in the public sector, with an increasing number of contractors taking legal action against unscrupulous hirers. However, it appears there is already even sterner resistance in the private sector, where 51% of contractors are prepared to appeal, compared to 40% in the public sector.

"Contractors are well aware that the Off-Payroll tax rules risk pushing them into false employment, and it's no surprise that they aren't happy to simply roll over," comments Chaplin. "And though HMRC will have been the architect of this mess, it is the hiring firms who are set to bear the brunt."

### **HMRC tax grab set to intensify skills shortages**

Organisations across the public sector have failed to compromise on their approach to the new Off-Payroll tax legislation, and are suffering intensified skills shortages as a result. If private sector firms follow suit, they could suffer an identical fate. An expansion of the new tax into the private sector alone threatens to deprive the UK labour market of much of its flexibility.

- 23% of respondents would quit contracting altogether
- 51% said they would consider changing career.

The findings also dispelled the notion that the remaining contractors would be inclined to work more to make up for earnings lost to increased tax, meaning further bad news for UK plc.

- 54% of contractors said they would sooner work less each year than take on contracts within IR35
- Just 18% claimed they would seek more work.

### **Mobility of the flexible workforce will be hindered**

Neither should the impact of the withdrawal of claimable expenses be overlooked. Only 8% of contractors claimed that not being able to claim travel expenses wouldn't impact their geographical mobility.

Meanwhile, 63% indicated that they would only travel for work if their rate increased, while 30% said they would avoid contracts that involve travel altogether. This condition could have particularly damaging consequences for firms operating in sparsely populated areas, or in industries which rely heavily on talent from around the UK, such as engineering and infrastructure.

"I travel 72 miles per day to go to work," commented one respondent. "If I can't claim travel expenses, it is not economically viable for me to work."

## Contractors ready to contest CEST results

Survey respondents provided a damning rejection of CEST, the tool built by HMRC to help firms assess IR35 status. Having been exposed by ContractorCalculator for [omitting key areas of employment case law](#) and [without their being any proof that it is accurate](#), there is an overwhelming sense of mistrust in HMRC's status tool. Of the contractors surveyed:

- 99% do not agree that CEST accurately reflects the law around employment status
- 79% do not believe that CEST can be trusted to give accurate results
- 75% claimed they would always seek an alternative assessment from an expert
- 48% would contest a CEST assessment where IR35 is deemed to apply
- As few as 5% of contractors would accept a CEST 'inside IR35' assessment.

Firms might also be ill-advised to assume that using CEST means they are protected from the taxman's advances. According to 74% of contractors, HMRC cannot be trusted to stand by the results of its own tool. This situation is unsurprising, given that HMRC has already granted itself license to challenge assessments carried out using CEST.

"For private sector firms, the message is clear: assessing contractors using CEST will be troublesome in the long run," notes Chaplin. "The contract sector is well aware of CEST's shortcomings, and contractors aren't going to willingly accept a tax hike on the say-so of HMRC's flawed tool."

## HMRC condemned for attacking flexible working

Many contractors believe the newly-proposed Off-Payroll tax for the private sector is already a done deal in the eyes of the taxman, considering it to be a ploy to yield the most tax, as opposed to the correct amount of tax.

"There is no doubt in my mind that the responses to HMRC's consultation will be ignored, just as the responses to the public sector Off-Payroll consultation were," noted one respondent, while another took aim at the timing of HMRC's actions:

"At a time of economic uncertainty for the UK, HMRC seems intent on attacking the segment of UK business that provides greatly needed mobility and flexibility. It is unbelievable how such short-term gains can be seen as the way forward when they will cause such harm to UK businesses."

The growing mistrust is not without substance, as the taxman has continued to brazenly deny evidence demonstrating that the Off-Payroll legislation has failed to improve compliance. If one respondent is to be believed, HMRC's refusal to abide by its own legislation is astonishing:

"I worked as a contractor at HMRC when the Off-Payroll tax rules took effect. Even HMRC didn't trust or use the results of CEST, and instead issued a company-wide mandate that all contractors were to be deemed inside IR35, instead of taking a considered view of each contract and working practices to correctly determine IR35 status."

## Overlooking contractor plight poses major risk to MPs

MPs would also be advised not to let HMRC's portrayal of the Off-Payroll tax rules cloud their judgment, as doing so could have significant repercussions. When asked whether they would vote for their local MP at the next election, if their MP were to support the new Off-Payroll tax, 49% of contractors said no.

Mistrust in Government is already evident among many contractors, as demonstrated within the anecdotal evidence. "I no longer expect

justice or generally accepted moral or ethical values from the Government, or the Tory party,” commented one respondent.

Another added: “The Government should seek to minimise changes in these uncertain times, rather than foolishly proceeding with something already shown to have caused problems with resourcing and delivery of public sector services.”

“As the implementation of the recent public sector changes have shown, Government alone can’t be trusted to do what’s best by the UK,” concludes Chaplin. “Together with the contract sector, the labour market as a whole must make Government see sense before any further disastrous consequences are realised.”

Full survey results: [ContractorCalculator - Off-Payroll Tax in the private sector - survey results](#).

Published: Wednesday, July 4, 2018

© 2018 All rights reserved. Reproduction in whole or in part without permission is prohibited. Please see our [copyright notice](#).

200,000+ monthly unique visitors

© Copyright 2018 Byte-Vision Limited UK. All rights reserved [Copyright notice](#)