

## IR35: ContractorCalculator publishes summary of responses to Off-Payroll consultation



Contractors, stakeholders and MPs have access to a balanced analysis of sentiment towards HMRC's IR35 proposals, following the launch of ContractorCalculator's [summary of responses to HMRC's 'Off-Payroll working in the private sector' consultation](#).

The summary encompasses analysis of more than 30 consultation responses and other relevant material from key stakeholders within the contracting sector, tax industry and legal sector and has uncovered numerous concerns shared by respondents:

- April 2019 implementation date for private sector change is too soon
- Any change needs to follow a comprehensive review of public sector impact
- HMRC has misrepresented Off-Payroll's impact on the public sector and its tax yield
- Off-Payroll has resulted in widespread non-compliance among public sector clients.

"Following HMRC's distorted representation of the impact of the public sector changes, specifically its cherry-picking of details from the IFF Research report within its consultation, there is a lot of mistrust between the contract sector and the taxman," comments ContractorCalculator CEO, Dave Chaplin.

He continues: "Quite frankly, we don't trust HMRC to provide an accurate depiction of the feedback provided within its own summary, which is why we have decided to publish our own. It clearly shows that HMRC's claims are far from reflective of market sentiment, and that an inquiry is urgently needed to get to the truth."

### Consultation brings Off-Payroll criticisms to the fore

ContractorCalculator's summary gathers feedback from the likes of Ernst & Young (EY), the Institute of Chartered Accountants in England and Wales (ICAEW) and the Freelancer & Contractor Services Association (FCSA).

It relays the prevailing message that any further change needs to be considered and researched thoroughly, following the end of a full compliance cycle in the public sector, with many noting that the Off-Payroll tax yield will not be known until mid-2019. Others have pointed towards Off-Payroll's effect on the public sector as evidence of the negative impact of ill-thought-out legislation.

Multiple sources have called on HMRC to [consider IR35 holistically alongside the Government's 'Good Work Plan'](#), to help prevent the [exploitation of contingent workers](#), which many argue Off-Payroll will accelerate further if extended into the private sector.

"Off-Payroll delivered what many of us predicted," comments Chaplin. "Those with low bargaining power have had employer's taxes passed onto them via rate cuts, with no employment rights provided. Those who least could afford this change have been the ones most affected."

Many have warned Government of the disproportionate compliance burden that Off-Payroll would impose on small businesses, while questioning the timing of proposed change, as businesses brace themselves for Brexit and Making Tax Digital (MTD) for VAT in 2019. Others have criticised HMRC for using the public sector as a model for private sector change, despite their inherent differences.

HMRC's [Check Employment Status for Tax \(CEST\) tool also comes under fire](#), with several stakeholders noting that recent tribunal cases have demonstrated that neither it nor HMRC's approach are fully aligned with IR35.

"CEST has clearly failed, and with HMRC continuing to lose IR35 cases in court, it cannot seriously be tasked with educating 5.7m businesses on how to assess employment status," Chaplin adds.

## **Contract sector has 'two months to prevent catastrophic change'**

The summary also highlights various alternative compliance solutions posed by respondents, but Chaplin emphasises that its primary purpose is to ensure that a fair representation of feedback to HMRC's proposals is conveyed.

"Though HMRC puts forward two alternative compliance solutions itself, and invites suggestions from stakeholders, consensus within the sector is that the consultation is a mere formality and that a private sector expansion of the Off-Payroll tax is imminent.

"We urge all of our readership not only to read this summary, but to share it with their MPs together with our [32 page Fact Pack](#). The Chancellor could make a decision on Off-Payroll within the November Statement, meaning we may have as little as two months to prevent Government from implementing legislation which would prove catastrophic for both the contract sector and the labour market."

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