

The new Off-Payroll tax – coming to the private sector and killing business



With its [latest consultation](#), HMRC has edged another step closer to implementing what it has framed as the 'Off-Payroll working rules' in the private sector, but which is, in fact, a brand new tax on off-payroll working.

As UK plc mulls over HMRC's proposals, many firms will respond with the same blinkered view that the taxman has projected, unaware that they will be liable for effectively all the tax set to be amassed by the changes.

What's alarming is the sheer volume of UK firms that are unaware of this, because 'non-compliance with IR35 among contractors' has been the central theme of HMRC's campaign. But, then again, this was all part of the taxman's plan.

HMRC's Off-Payroll tax: how it works in practice

With the Off-Payroll tax rules, the taxman has introduced a brand new tax [enshrined in 12 extra pages of legislation in Chapter 10 of the Finance Act 2016](#). And though HMRC goes to great pains to claim that this new tax legislation is not a new tax, the fact that (often in the same breath) it claims the Off-Payroll tax has raised £410m so far and will raise a further £1.2bn in tax receipts suggests otherwise.

Dave Chaplin, CEO of ContractorCalculator says: "It's 12 pages of new tax legislation, in a Finance Bill, that raises tax. To suggest it's not a new tax is fanciful and yet [another propaganda tactic by HMRC](#) to pull the wool over people's eyes."

HMRC has framed the issue around contractors not paying enough tax, even though due to changes to dividend taxation, roughly the same levels of tax are paid by limited company contractors and employees since April 2016.

However, as acknowledged by the [Taylor Review](#), more than 80% of perceived tax avoidance is due to corporations avoiding employer's National Insurance (NI) – or what it refers to as 'the £60bn elephant in the room' – by engaging contingent labour. Unsurprisingly, this is the tax targeted by the new Off-Payroll tax rules.

Due to the way the rules have been manipulated by HMRC, organisations will assume that contractors are caught by the legislation unless it can be unequivocally proven otherwise – in other words, guilty until proven innocent.

HMRC has created a [deemed tax provision by proxy](#), whereby organisations are inclined to blanket assess contractors as caught by the rules for fear of negative repercussions from the taxman if they do otherwise. It's tax by fear rather than by fairness.

And to cap off the gross unfairness of it all, there is no appeals process. So whilst HMRC can currently step in and challenge someone's tax status and force them to court to defend their status, there is no simple process to challenge the status assessment that a firm makes. The money is immediately taken from the contractor, and the only way to recover the money is via the county court by litigating against one's own

client.

Why HMRC frames contractors as the guilty party

So, while firms will be deeming contractors as caught by the rules to save their own skin, many are unaware that they are in fact liable for the subsequent additional tax. By framing the Off-Payroll tax as a means of tackling tax avoidance among contractors, HMRC has so far managed to squeeze the real repercussions of its proposals under the radar of the business lobby groups.

Given that these groups tend to be the only ones that have real clout in lobbying circles, it would be foolish to suggest that this wasn't a premeditated move by the taxman. Although HMRC won't make it clear, the legislation leaves no doubt as to who is responsible for paying this new tax.

HMRC's consultation: nothing more than a smokescreen

HMRC's consultation on implementing Off-Payroll in the private sector is farcical. Besides cherry picking figures from its independent research to provide the impression that reform in the public sector has been an overwhelming success, and ignoring the heaps of evidence proving the contrary, it reads as though an advertising agency has written it!

Its intention is to misdirect MPs and the public, and the lengths it goes to in order to achieve this warrants its inclusion in this year's Man Booker Prize for Fiction shortlist.

Beyond that, the consultation is mere lip service. From our lobbying efforts so far, it has become clear that the Treasury and HMRC are in cahoots over the Off-Payroll tax, and responses to the consultation will do little to turn their heads.

Help us lobby to prevent Off-Payroll tax

The only other people who can influence the outcome are MPs, meaning the only action that can prevent the Off-Payroll tax from hitting the private sector is lobbying. So, once you have issued your consultation response, write to your MP, join in the lobbying and let UK plc know what the Off-Payroll tax really means.

We're still waiting for the business community to realise that it is being deceived, and that a huge stealth tax is coming its way. The Off-Payroll tax threatens to force thousands of contractors into false employment while slapping employment taxes of 13.8% on hirers engaging the legitimately self-employed.

To help prevent this from happening, get involved with our IR35 Campaign and follow the instructions set out on [our campaign page](#). If you would like to find out more about the Off-Payroll tax and its impact, feel free to check out the facts and data section or [connect with me on LinkedIn](#).

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