

10 times HMRC used propaganda to mislead MPs and the public on IR35



As HMRC edges closer to a private sector rollout of the new Off-Payroll (IR35) tax, it is becoming more apparent that the taxman only wants MPs and the public to hear one side of the IR35 story.

Its recent consultation – Off-Payroll working in the private sector – provides multiple examples where HMRC has attempted to fuel its own agenda, rather than providing a balanced overview of the Off-Payroll legislation and IR35.

Unfortunately, this is nothing new for HMRC, which has long failed to act with objectivity and honesty. Here are 10 times the taxman has used propaganda to mislead MPs and the public on IR35.

1. Demonising the enemy: making the opposition appear immoral through false accusations

HMRC's IR35 discourse has long vilified contractors, portraying them as tax avoiders, thereby [demonising the enemy](#). As the taxman seeks to extend the Off-Payroll rules into the private sector, the emphasis is again placed on tackling 'high levels of non-compliance with the rules' (2.6).

This is despite the fact that contractors and employees [pay a similar amount in tax](#), and the shortfall in tax revenue is created by the absence of employer's National Insurance, (NI), which doesn't apply to self-employment.

2. Half-truth: deceiving the recipient by delivering a partly true statement

The recent Off-Payroll consultation champions the success of the public sector reforms, stating that it has contributed to an additional £410m in tax receipts, which it claims to be evidence of rising compliance ([see page 2, table column 2](#)). This is a [half-truth](#).

Compliance hasn't increased. [Blanket IR35 assessments](#) conducted by public authorities have seen many contractors forced into false employment and excessive taxation, yet HMRC has chosen to ignore the evidence because it detracts from its compliance claims.

Tax receipts may not have increased either. The £410m figure represents an increase in income tax and National Insurance Contributions (NICs), but the inevitable decline in Dividend Tax and Corporation Tax payments have not been considered – the figures for which aren't even available yet.

3. Lying and deception: telling falsehoods

The taxman has often stretched the truth when it comes to IR35 and, in some instances, has committed [outright deception](#). A recent example is HMRC's insistence that mutuality of obligation (MOO) exists whenever a contract is formed between a worker and a hirer, and therefore, all

contractors are subject to it.

This is a false representation of MOO, yet HMRC has pedalled this claim to public sector bodies, [IR35 Forum members](#) and [tribunal judges](#), as well as MPs. It has also attempted to use this false claim to justify the [omission of MOO](#) from its Check Employment Status for Tax (CEST) tool.

Worryingly, it appears the [Chancellor of the Exchequer has been misled by HMRC](#), with recent correspondence from him reiterating the taxman's flawed stance.

4. Ad nauseam: tireless repetition of an idea that might eventually be accepted as true

The mantra that 'when two individuals are doing the same job in the same way, they pay broadly the same tax' (2.14), has been reiterated so many times by the taxman that [MPs appear to have taken it as fact](#). It's a tactic called [ad nauseam](#).

It sounds like an upright notion but has no basis in law. Neither does it consider the bigger picture, failing to consider that, unlike employees, contractors receive no job security or employment rights.

5. Cognitive dissonance: encouraging support for a value by associating it with another value that the audience favours

Despite the many benefits of contracting, including greater flexibility and variety of assignments, HMRC has made the limited company contracting model synonymous with tax avoidance, the prevention of which is obviously deemed favourable. An example of using [cognitive dissonance](#).

The taxman has consistently attempted to drum up political support for IR35 by publishing figures estimating the cost of non-compliance. Its latest claim is that non-compliance will cost 'the taxpayer' £1.2bn a year by 2022/23 (2.2) if it isn't addressed. HMRC has so far failed to substantiate any of its calculations.

6. Ad hominem: attacking one's opponent personally instead of attacking their arguments

The shortcomings of CEST are well documented, and ContractorCalculator has copious evidence demonstrating that it is not fit for purpose. When our criticisms of CEST were put forward to HMRC's Jim Harra at a Public Accounts Committee (PAC) meeting, [Harra responded by attacking our integrity](#).

Harra implied ContractorCalculator had a vested interest because we also have a tool to determine IR35 status. In doing so, he managed to divert much of the attention away from the issues that he was questioned on. (BTW, HMRC's argument is nonsense - we are trying to kill the proposals, which will remove the need for any tools, including our own.)

7. Cherry picking: delivering certain truths in a way that prevents the recipient from suspecting they are receiving propaganda

HMRC's recent IR35 consultation document was a sales pitch for a private sector extension of the Off-Payroll rules. Notably, it contained a [cherry picked](#) selective summary of the [findings from the independent research](#) into the public sector reforms that HMRC commissioned.

Though HMRC downplays the impact that the changes had on public sector projects and costs, a scan of the research itself provides multiple accounts that demonstrate otherwise. One comes from the Central Body, Health and Social Work, an organisation hiring over 10,000 workers, for whom costs have increased by 10-15% (page 39).

8. Disinformation: the creation or deletion of information from public records

A year-long investigation by ContractorCalculator, which involved seeking evidence to support the taxman's claims championing the accuracy of CEST, ended in February 2018 when HMRC stated that it had [no detailed evidence to prove that CEST is accurate](#).

The development of CEST should have involved ongoing, documented testing. For such an important tool, HMRC's insistence that no such testing took place is contentious and leads ContractorCalculator to suspect that incriminating evidence of CEST's shortcomings is being hidden. An example of [disinformation](#).

9. Pensée unique: enforced reduction of discussion by use of overly simplistic phrases or arguments

The taxman's IR35 discourse is littered with facile arguments, which fail to address key issues. One example which resurfaced in its consultation was the taxman's assertion that the Off-Payroll legislation: 'does not affect how people who are genuinely self-employed are taxed' (1.1). A classic [Pensée unique](#).

This is an attempt to reduce discussion by implying that the effects of IR35 are justified, which ignores the abundance of evidence ([see page 3, table column 3](#)) demonstrating that non-compliance with the Off-Payroll rules among hirers have resulted in many public sector contractors being wrongly forced into false employment.

10. Scapegoating: assigning blame to an individual or group to divert attention away from the root problem

IR35 has been in effect for 18 years and has continually fallen short of its expected tax yield. HMRC has maintained that this is down to non-compliance and estimates that only 10% of limited company contractors who should apply the legislation actually do (1.2), thereby using [scapegoating](#).

Despite this, HMRC has only fully won three of the last ten IR35 tribunal cases, the most recent of which saw the taxman display an embarrassingly loose grasp of the legislation. HMRC can continue to point the finger at contractors, but the facts suggest that non-compliance is not the key issue here.

Published: Thursday, July 5, 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](#)