

Is HMRC promoting tax avoidance for 29% of contractors who use its IR35 status tool?

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In the week that new IR35 legislation comes into effect in the public sector, contracting expert Dave Chaplin, CEO and founder of ContractorCalculator (<http://contractorcalculator.co.uk>) is suggesting that HMRC's IR35 status tool could be facilitating tax avoidance. This is based on the analysis of over 558 results that contractors have obtained from HMRC's Employment Status Service tool compared with ContractorCalculator's IR35Testing tool.

ContractorCalculator's tool asks 101 questions before giving an instant IR35 review result and also asks that if the contractor used HMRC's ESS tool, what did it tell them?

Contractor Calculator has answers from 558 contractors and has compared the results and discovered some surprising and worrying conclusions:

- 29% of contractors are told by HMRC that they pass IR35, when the IR35Testing tool fails them. The majority of these (19%) are also really strong fails
- 24% of contractors are told by HMRC that their status is unknown. Of those unknowns we agree with 4% of the results. But 60% of that group are clear cut passes or clear fails and should be easily identifiable.
- 3% of contractors who HMRC fails should actually pass

ContractorCalculator has been testing contractors with its new version of the testing tool since February 7th and has carried out some 6,049 tests. It has been in development for 7 years, is an artificial intelligence based system and produces the same results as all 21 IR35 historic court cases.

Dave Chaplin commented: "Given these hard statistics it is no surprise that HMRC doesn't appear to be standing by the results of its own tool when assessing its own contractor workforce, despite saying it would. These figures firmly back up what agencies and providers have been telling us for months, that the HMRC tool cannot be trusted. 29% of contractors should be caught by IR35 and HMRC has passed them, therefore inadvertently facilitating tax avoidance.

"The market is in utter chaos, and contractors are unnecessarily abandoning government projects due to blanket rules that are being put in place because of the confusion created. The NHS is also suffering with the BBC recently reporting that some hospitals around the country fear locums will refuse work and not turn up for shifts because of a drop in pay of up to 25% when tax and national insurance is deducted at source under the new reforms.

"Public sector bodies are opening themselves to significant litigation risk by putting in blanket policies. They have not taken 'reasonable care' as the legislation dictates, and by forcing contractors into false employment they are opening themselves up to the risk of litigation.

"And the frustrating thing is – all this could have been avoided if HMRC had actually listened to stakeholders."

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For further information or to arrange an interview with CEO Dave Chaplin contact:

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NOTES FOR THE MEDIA

About ContractorCalculator.co.uk

ContractorCalculator is the leading independent website for the UK contracting industry, offering a comprehensive range of financial, salary and tax calculators, along with a quality news service and expert commentary from industry leaders.

The site regularly receives over 100,000 visitors every month, composed largely of highly skilled workers in the information technology, engineering, energy, oil & gas, finance, media and marketing, interim management and construction.

There are 1.56 million such workers in the UK today who prefer to run their own businesses and work under contract rather than become employees of specific companies. Their contribution to the economy is crucial to keeping UK businesses competitive.

About Dave Chaplin, ContractorCalculator CEO

Whilst working as an IT contractor for various blue chip clients in London's finance sector, Dave Chaplin founded ContractorCalculator. Applying 30 years of software and IT solutions development experience, 17 years knowledge of employment case law and two maths degrees, Dave and his team have developed the most comprehensive IR35 testing tool on the market. Since its original inception in 2009, the test has been conducted by contractors in excess of 100,000 times.

About ContractorCalculator.co.uk's Online IR35 Test

Our Online IR35 Test was designed and built by ContractorCalculator in 2009. This followed extensive research with experts in employment law, contract law, taxation and IR35 and the expertise acquired over ten years of monitoring the IR35 legislation.

Underpinned by a powerful bespoke algorithm developed by ContractorCalculator CEO Dave Chaplin, the test has been recently enhanced and contains 101 questions. The algorithm factors in case law and the relative importance of the key tests of employment, and is frequently fine-tuned in accordance with the latest

IR35 tax tribunal outcomes.

The test gives a result on a 19 point scale, with each number falling in one of the following sections: Fail, borderline fail, borderline, borderline pass, pass. The test has been used over 100,000 times since its original inception, and we are confident that it provides the most comprehensive IR35 assessment available.