



OFF-PAYROLL WORKING: EXTENSION TO PRIVATE SECTOR: ESTIMATED COST BURDEN AND DISPUTE RESOLUTION (FINANCE BILL 2019-20)

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Text of written evidence submitted to the House of Lords Economic Affairs Committee Finance Bill Sub-committee **inquiry into off-payroll working: extension to private sector** in response to a request made at the **oral evidence session on 10 February 2020** to provide further information on the estimated cost burden on businesses of implementing the changes and on a model for an independent dispute resolution process.

This response dated 19 February 2020 was prepared by ICAEW Tax Faculty. Internationally recognised as a source of expertise, the Tax Faculty is a leading authority on taxation and is the voice of tax for ICAEW. It is responsible for making all submissions to the tax authorities on behalf of ICAEW, drawing upon the knowledge and experience of ICAEW's membership. The Tax Faculty's work is directly supported by over 130 active members, many of them well-known names in the tax world, who work across the complete spectrum of tax, both in practice and in business.

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OFF-PAYROLL WORKING: WRITTEN EVIDENCE TO HOUSE OF LORDS FINANCE BILL SUB-COMMITTEE

Thank you for the opportunity to provide oral evidence to the Economic Affairs Finance Bill Sub-Committee last week on the proposed extension of off-payroll working reform provisions to the private sector.

During the session, Lord Tyrie asked that I, alongside the witnesses from ICAS and ACCA, provide further information on the estimated cost burden of implementing these changes on business, and on a model for an independent dispute resolution process. I am happy to provide this information.

COST BURDEN ON BUSINESS

In the Government's policy paper, the estimated one-off administrative burden is reported as £14.4 million, and the estimated on-going administrative burden is reported as negligible. As indicated during the oral evidence session, I believe that this figure underestimates the costs which businesses have already incurred and will continue to face.

It is difficult to estimate the overall cost burden as different businesses will need to prepare to different degrees. However, ICAEW Tax Faculty has spoken to six members who work in senior roles in high-profile large corporate groups in the UK to get an understanding of the compliance costs their businesses have seen so far. The identity of these businesses has been withheld:

- **Business 1:** This business has spent around £330k on external project management and adviser fees for IR35, and then another £425k on salary costs for employees working on IR35 compliance. This business's one-off administrative burden is therefore around £725k.
- **Business 2:** This business has spent around £200k on external advisers and legal support, and then another £200k on salary costs for employees working on IR35 compliance. This business's one-off administrative burden is therefore around £400k.
- **Business 3:** This business has spent around £200k on external costs, and then another £100k on salary costs for employees working on IR35 compliance. This business's one-off administrative burden is therefore around £300k.
- **Business 4:** This business has spent around £140k on consultants, legal advice and an IR35 tool, and then another £320k on salary costs for employees working internally on IR35. This business's one-off administrative burden is therefore around £460k.
- **Business 5:** This business has spent around £600k on salaries and associated costs for employees working on IR35 compliance.
- **Business 6:** This business has spent around £100k on professional fees, and another £150k on salary costs for employees working on IR35 compliance. This business's one-off administrative burden is therefore around £250k.

While this represents a small snapshot of the preparatory work which businesses across the UK are undertaking, the one-off administrative burden for just these six businesses to prepare for the off-payroll changes in April is nearly £3 million.

Separately, we have also spoken to some of our members working in professional services firms who have been supporting businesses currently preparing for the new rules. They have, without prompting, validated that for large groups preparing for the changes, charges for consultancy and implementation time are between £150k and £600k.

Reflecting on our engagement with both members in business and practice as per the above, we do not believe that £14.4m million is a representative figure for the cost burden on business preparing for these changes.

INDEPENDENT DISPUTE RESOLUTION PROCESS

The rules do not currently include a clear, independent and timely way for a worker to challenge a status determination and for this to be resolved.

This part of the policy needs further work which requires input from all involved. HMRC should launch a further consultation on this aspect with businesses and their advisers.

I hope that this information is useful for the Committee's inquiry into the extension of off-payroll working reform provision to the private sector.

19 February 2020

APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see <https://goo.gl/x6UjJ5>).