

## Written evidence submitted by Mr Dave Chaplin

My credentials on the topic of IR35:

- Written books on IR35
- Studied the case law for 20 years.
- Hundreds of FOIs on the matter
- Debunked accuracy of CEST, proved no data exists for accuracy.
- Provided evidence to NAO, as part of the enquiry into the BBC fiasco
- Provided evidence to NAO, as part of recent IR35 enquiry
- Help defend taxpayers on IR35 matters at tax tribunal
- Consulted with HMRC/HMT, and Office of Tax Simplification.
- Provide advice and guidance to hundreds of firms on IR35 matters.
- Led the Stop The Off-Payroll Tax Campaign (<https://stoptheoffpayrolltax.co.uk/>), which led to the IR35 Review.
- Founder of ContractorCalculator.co.uk – currently around 150,000 visitors per month.
- Founder of IR35 Shield – helps firms / contractors do assessments.

### Declaration of interest

*I've been in this market for 23 years, first being a contractor myself. My background is mathematics, computer programming, and algorithm design. 10 years ago we built an online status test to try and help people ascertain their IR35 status. Today it's wrapped up in something called "IR35 Shield" which is a commercial operation. My website ContractorCalculator.co.uk is also commercial, and has been running for over 20 years. It's in my interests for contractors to be given fair tax treatment.*

Dear Committee,

Please excuse the succinctness of this response.

Whilst there is much that could be said, I just want to draw the PAC to the single most important factor, in my view.

The legislation has a fundamental flaw, whereby there is no automatic tax offset mechanism that kicks in IF a firm has wrongly assessed (in good faith) as “Outside IR35”, which is later successfully challenged by HMRC.

The impact is as follows:

- Double taxation.
- A disproportionate threat to the hirer should they choose to hire on an outside IR35 basis.
- A behavioural effect which discourages firms from hiring on an “Outside IR35” basis where Chapter 10 (OPW) applies.

This was raised by the NAO in their recent report. It was also brought to the attention of the House of Lords, which was responded to by HMRC, here (point 5):

<https://committees.parliament.uk/publications/8634/documents/87519/default/>

The matter has also been brought to the attention of HMRC for quite a while – yet nothing has been done. See copy of letter we obtained that was sent to HMRC from the ICAEW. This has been emailed to the Chair of PAC and PAC separately.

The whole point of IR35 is to clawback unpaid secondary class 1 NICs (“Employers NI”), which forms the vast bulk of perceived tax loss.

Currently the legislation does not do that.

It makes the hiring firm pay ALL the taxes, of around 50% of the total cost of hire. And then the contractor can obtain a full refund for ALL taxes they have paid – they will pay nothing. And there is nothing that forces them to return any monies to the hirer to fund their new tax bill.

That is obviously not right.

What needs to happen is that the entire position is unwound correctly, in tax law.

Until this anomaly is fixed, UK PLC will continue to be damaged, and freelance contractors and others in the supply chain will not be taxed fairly.

**February 2022**