

Understanding tax avoidance arrangements used by contractors

HMRC Research Report 583

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Executive Summary

Background

Tax avoidance involves bending the rules of the tax system to gain a tax advantage that Parliament never intended – so operating within the letter, but not the spirit of the law.

For the purpose of this research contractors were defined as freelancers or other individuals who can sell their services by way of a contract. There are many tax avoidance schemes being marketed and promoted to contractors by tax agents/advisers and HMRC were keen to explore the extent of this activity.

HMRC commissioned IFF Research to conduct this research to explore contractors' motivations for entering contractor avoidance schemes and to explore how the contracting industry is targeted by promoters of tax avoidance.

Research Objectives

The primary aims of this research were to help HMRC understand more about how contractor avoidance schemes are promoted and marketed; and to better understand contractors' views of avoidance schemes.

Findings from the research will be used to help support HMRC's strategic objective to 'maximise revenues due and bear down on avoidance and evasion' and will be considered during the development of strategies designed to both tackle existing tax avoidance, and prevent future usage of avoidance schemes.

Methodology

Qualitative research was conducted with two key audiences: employment agencies and contractors.

Ten face-to-face interviews were conducted with employment agencies and 30 interviews were conducted with contractors (20 interviews were completed with contractors with an open enquiry with HMRC about the use of a marketed tax avoidance scheme targeted towards contractors and 10 with contractors with a closed enquiry). To provide a comprehensive view, interviews were conducted with contractors working in a wide range of industries, including; IT, health and social care, finance, construction, management, oil and gas, legal and creative industries.

Interviews for this project were conducted between 19th March and 18th May 2018. Each interview lasted approximately 60 minutes.

To achieve a range of perspectives on the subject, interviews were conducted with a range of types of participants in terms of: self-declared level of knowledge about tax, whether they were advised to enter a scheme or decided to join, age, gender and location. However, participants were not sampled on this basis.

Key findings

How do employment agencies think and talk about tax avoidance?

The extent to which tax compliance is something that is discussed within each employment agency varied considerably. Whilst some said it was not regularly discussed within their business, others suggested that it was a 'hot topic' for the business that is regularly discussed.

To what extent are employment agencies aware of avoidance schemes?

Employment agencies had mixed awareness of contractor loans schemes¹. Those aware displayed varying levels of understanding; with some unable to provide any details about the mechanics of how they work.

Employment agencies had far lower awareness of job board avoidance schemes². However, a few spontaneously mentioned that they were aware of some offshore avoidance schemes still being used.

How do employment agencies see the tax avoidance market?

Some employment agencies felt that tax avoidance has become less common among agencies and contractors; and some others suggested that the use of avoidance schemes is on the rise.

A few claimed to have witnessed umbrella companies³ driving this by promoting non-compliant activity.

To what extent are employment agencies using umbrella companies?

All employment agencies that took part in the research had heard of umbrella companies; and most were using them, but not all employment agencies using umbrellas displayed a detailed knowledge of how it changed their tax liabilities in respect of individuals finding work through their agency.

To what extent are employment agencies aware of recent / forthcoming changes to legislation?

All employment agencies that took part in the research claimed to follow legislative changes to the tax system that could impact on their business, but some agencies had limited awareness of and understanding of some key changes such as the disguised remuneration loan charge due to be introduced from April 2019 (on all contractor loans after April 1999) and Managed Service Company legislation.

¹ <https://www.gov.uk/guidance/contractor-tax-loan-schemes-can-cost-you-more>

² <https://www.gov.uk/guidance/disguised-remuneration-job-board-avoidance-scheme-spotlight-37>

³ An umbrella company is a company that acts as an employer to agency contractors who work under a fixed term contract assignment, usually through a recruitment employment agency in the United Kingdom.

How do contractors think and talk about tax avoidance?

Many contractors did not display a detailed, accurate and consistent understanding of what tax avoidance is (and what it is not) during the interviews. Most found it particularly difficult to distinguish between tax avoidance and tax evasion.

Contractors suggested their opinions about tax are primarily formed by the media, conversations with colleagues / friends / family and, in some cases, their accountants.

How do contractors see the tax avoidance market?

Contractors perceived the use of avoidance schemes to be 'very common' among contractors, employment agencies and umbrella companies. Those who expressed this opinion seemed to be basing this on their first-hand experiences and because they were aware of many other contractors in their industry using the same or similar schemes. As such, many considered it a 'normal' part of working as a contractor.

What factors make tax avoidance schemes attractive / unattractive to contractors?

Contractors stated that tax avoidance schemes were attractive because a) schemes allowed contractors to keep a higher proportion of their pay and b) use of schemes reduced the administrative burden placed on contractors.

However, most contractors considered schemes to be attractive because they were sold as legal/HMRC approved.

The research also suggests that contractors' perceptions that use of schemes was widespread in their industry also made them attractive due creating a sense of legitimacy.

How are contractors targeted by promoters of tax avoidance schemes?

Promoters of tax avoidance schemes are targeting contractors through a variety of channels including: personal recommendations via word of mouth, internet adverts and cold calling.

This research suggests the influence of colleagues / friends / family is a key factor in encouraging contractors to enter avoidance schemes.

How are contractor avoidance schemes marketed / sold to contractors?

The main marketing messages being used to market / sell avoidance schemes to contractors are that they allow contractors to take home a higher proportion of their pay whilst reducing the amount of administrative burden they are subject to, whilst being legal and HMRC-approved.

Are contractors wittingly / unwittingly sold avoidance schemes?

Most contractors felt that they had got involved with their scheme unwittingly. They stated that they did not know that their involvement in the scheme would result in them being contacted by HMRC because they genuinely felt that the scheme they were involved with was legal and

HMRC-approved (due to the way in which it had been sold by those promoting it). Most considered themselves victims of the companies administering schemes as a result.

How do contractors view avoidance settlement opportunities?

Contractors are motivated to settle their case to avoid interest accruing on the amount they owe and to remove the stress created by having an open case 'hanging over them'.

Some contractors were frustrated by the avoidance settlement opportunities available to them, seeing the process of dealing with HMRC as being unclear, protracted and lacking in transparency.

Whilst some contractors wanted to close their case as soon as possible and had taken steps towards doing that, others were challenging their case via collective action orchestrated by the company administering their scheme.

A contractor's ongoing relationship with the company administering the scheme and the amount of money they owe / the number of financial years that are under dispute seems to impact on their propensity to want to engage with HMRC about settling their case. For example, contractors that had a long relationship with the company administering the scheme and owed large amounts were less willing to engage with HMRC.

What support would contractors like from HMRC to help them through the process of settling?

Contractors suggested that stopping companies from administering avoidance schemes / punishing those that do; and providing more and clearer guidance about what is acceptable to HMRC would negate the need for many contractors to have to go through the settlement process.

Some also suggested that they would be more inclined to engage with HMRC on the settlement opportunities available to them if HMRC were more transparent about how much they owe and how this is calculated; and if they took a more collaborative approach during the settlement process.

To what extent are contractors aware of recent / forthcoming changes to legislation?

Contractors generally had a low awareness of recent / forthcoming changes to legislation. However, many were aware of potential tax liability on all contractor loans after 1999 that remain outstanding on 5 April 2019. This legislation is extremely unpopular among contractors.

Some contractors suggested that HMRC's ability to take what they believed to be retrospective action⁴ would result in fewer people staying in contracting, to the detriment of the UK economy. Feedback from others suggested it has fostered a mistrust of government in general.

⁴ The charge on outstanding loans is not retrospective. A retrospective charge would change the tax position of a transaction that occurred in the past. This charge is a new charge arising at a future date and it does not change the tax position of any previous year.

1 Introduction

Background

Tax avoidance involves bending the rules of the tax system to gain a tax advantage that Parliament never intended – so operating within the letter, but not the spirit of the law.

Over the past few years tax avoidance has generated a lot of attention in the media and it can cause confusion among both individuals and businesses. The term is often confused with legitimate tax planning, like putting money in an ISA, and with tax evasion where information is deliberately omitted, concealed or misrepresented in order to reduce tax liabilities. Tax avoidance often involves complicated, artificial arrangements that have no real financial or commercial purpose, other than to avoid tax. Some of these schemes are sold to potential individuals and businesses by a promoter and in such instances HMRC refers to these as ‘marketed’ avoidance schemes.

Against this backdrop HMRC faces the challenge of closing the ‘tax gap’ – the difference between the amount of tax that should, in theory, be collected by HMRC, and what is actually collected. Of the current £33bn tax gap, it has been estimated that £1.7bn is accounted for by tax avoidance.⁵ HMRC is actively seeking to reduce the stock of users involved in tax avoidance schemes.

Many contractors decide to take advantage of the tax planning opportunities available to them to save money and reduce their tax bills, there are plenty of legitimate ways to do this which can provide savings opportunities. Many of these are laid out in the guidelines provided by HMRC, and these are considered acceptable means of reducing a tax bill so long as they meet any criteria specified.

However, there are many tax avoidance schemes being marketed and promoted to contractors by tax agents/advisers and HMRC were keen to explore the extent of this activity.

It was in this context that HMRC commissioned IFF Research to conduct this research to explore contractors’ motivations for entering contractor avoidance schemes and to explore how the contracting industry is targeted by promoters of tax avoidance.

⁵ Tax gap quoted is taken from most recent publication of the Tax Gap “Measuring Tax Gaps 2018 edition”

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/715742/HMRC-measuring-tax-gaps-2018.pdf

Research Objectives

The primary aims of this research were to help HMRC understand more about how contractor avoidance schemes are promoted and marketed; and to better understand contractors' views of avoidance schemes.

More specifically, the research sought to meet these primary aims by answering the following research questions:

- How do contractors think and talk about tax avoidance?
- How do contractors see the avoidance market? What do they think compliance looks like?
- What factors make avoidance schemes attractive / unattractive to contractors?
- How are contractors targeted by promoters of avoidance schemes?
- How are contractor avoidance schemes marketed / sold? Are contractors wittingly / unwittingly sold these schemes?
- How do contractors view avoidance settlement opportunities? What factors influence decisions to settle? What support would they like from HMRC?
- Are contractors aware of forthcoming changes to the Disguised Remuneration Legislation?
- Are contractors aware of "Umbrella Companies" and how they operate and pay the contractor? Are contractors using "Umbrella Companies"? How do these companies interact with contractor avoidance schemes?

Findings from the research will be used to help support HMRC's strategic objective to 'maximise revenues due and bear down on avoidance and evasion' and will be considered during the development of strategies designed to both tackle existing tax avoidance, and prevent future usage of avoidance schemes.

Methodology and sampling

The following section summarises the methodological approach adopted for this research project. More details about the methodology, including the profiles of participating respondents, are provided in Appendix A and the discussion guides used with participants of the research are provided in Appendix B.

As part of this research, views of employment agencies and contractors were gathered to explore how contractor avoidance schemes are promoted and marketed.

The sections below outline how the perspectives of these key audiences were collected.

Employment Agencies

A total of ten face-to-face qualitative interviews, lasting approximately 60 minutes each, were conducted with employment agencies between 19th March and 18th April 2018.

Sample was sourced by IFF from the Recruitment & Employment Confederation (REC)⁶ online membership directory.⁷ Employment agencies that took part in the research were purposively sampled on the basis that they provided contractors to the key industry sectors that HMRC wanted to explore during the research.

Within this purposive approach, interviews were conducted with a mix of employment agencies in terms of size and location – to achieve a range of perspectives. Those invited to participate were selected random within this sample frame.

Contractors

A total of 30 face-to-face qualitative interviews, lasting approximately 60 minutes each, were conducted with contractors between 12th April and 18th May 2018.⁸

HMRC provided IFF with contractor sample (including their contact details) after conducting an opt-out exercise. IFF then recruited participants from the remaining sample. Participants were purposively sampled according to industry sector and whether their tax avoidance case was ongoing (i.e. open) or settled (i.e. closed).

The table below shows the final profile of contractors who participated in the research by industry sector and case status.

⁶ The REC is the largest trade body within the UK recruitment industry representing more than 3,000 recruitment businesses and over 9,000 individual recruiters.

⁷ <https://www.rec.uk.com/membership/member-directory>

⁸ Three interviews with contractors were conducted by telephone where requested by a participant or where the participant's location prohibited a face-to-face discussion.

Industry Sector	Open Case	Closed case
IT	8	2
Health and social care	6	4
'Other' sectors These included: Finance, Management, Construction, Creative Industries and Oil & Gas.	6	4

Interviews were conducted with a range of contractors in terms of: their self-declared level of knowledge with regards to tax, whether they were advised to enter a scheme or decided to join of their own accord, age, gender and location.

A full profile of all research participants can be found in Appendix A.

About this report

The findings in this report have been split into three further chapters and are each structured around the project's research questions:

- **Chapter 2** summarises employment agencies' views on tax avoidance and the tax avoidance market
- **Chapter 3** discusses contractors' views on tax avoidance and the avoidance schemes they have used, before exploring the experiences of those who have settled their case and how those with open cases view the prospect of settling
- **Chapter 4** presents conclusions.

Report interpretation

This report summarises views expressed by employment agencies and contractors during the qualitative discussions conducted as part of this research. Whilst the research aimed to get a wide range of perspectives, its qualitative nature means that findings are not statistically representative of the wider employment agency or contractor population. The use of words such as 'most', 'many', 'some' and 'few' are illustrative of the findings collected for this study and do not represent the views of the general employment agency population or the general contractor population.

2 Employment Agencies

This chapter explores employment agencies' views on tax avoidance. It explores their awareness of the various schemes being used by contractors; before examining the extent to which employment agencies are targeted by those promoting the use of these schemes.

How do employment agencies think and talk about tax avoidance?

As part of the research, employment agencies were asked a series of questions to explore their general awareness of, and views about tax avoidance.

Based on their responses to these initial questions, some agencies did not have a clear understanding of what tax avoidance is (and what it is not). Although some agencies felt clear about the difference between tax avoidance and evasion, others were not; and there was general agreement that it can be difficult to draw a line between the two.

“Tax avoidance and evasion are easily mixed up. I forget which is which.”

Employment Agency, Health and Social Care

Some agencies believed that one could engage in tax avoidance and still be compliant, whereas others considered both tax avoidance and tax evasion to be illegal.

Employment agencies also expressed a range of views when asked whether they considered payment of tax to be a moral obligation. Most decided it is technically a legal issue. However, some felt that it has been increasingly judged in terms of morality and corporate social responsibility since the financial crash in 2008.

“These days there is much more of an awareness of tax and social obligations are coming into play a lot more, meaning things are not as crystal clear.”

Employment Agency, Legal

The extent to which tax compliance is something that is discussed within each employment agency varied considerably. Whilst some said it not regularly discussed within their business, others suggested that it was a 'hot topic' for the business that is regularly discussed.

“It's not a regular topic of discussion, it's normally only discussed when there are regulatory changes, like IR35, which might have an impact on how we work. For example, it was discussed last year when that was rolled out into the public sector because we had to do some investigation in what impact that would have on us and what actions we have to take.”

Employment Agency, IT

“I am probably spending a day a week on calls with business heads talking about this issue alone.”

Employment Agency, Health and Social Care

Regardless of how frequently employment agencies reported discussing tax, all employment agencies reported that they ensure they are fully compliant and suggested that they were not engaged in any activity that would be considered illegal. All employment agencies reported having members of staff designated to ensuring they were compliant. However, the amount of resource that employment agencies reported they could devote to this varied considerably – with larger agencies appearing to conduct far more rigorous audit processes since they have more resource available (see Case Study A for an example of evidence collected as part of a larger employment agency’s audit process).

Employment agencies reported getting their information about tax compliance and tax avoidance from a wide variety of sources, including:

- The Recruitment and Employment Confederation (REC)
- Industry Press
- Accountants / agents / advisers
- HMRC (mainly via the GOV.UK website - employment agencies had a mixed awareness of the HMRC employer bulletin but few reported using it)
- Media coverage
- Other agencies
- Contractor forums

To what extent are employment agencies aware of avoidance schemes?

During the interviews, employment agencies were asked a series of questions to explore their awareness and understanding of *contractor loans avoidance schemes* and *job board avoidance schemes*.

Contractor loans avoidance schemes claim to avoid the need to pay Income Tax and National Insurance contributions. They normally involve a loan or other payment from a third-party which is unlikely to ever be repaid.

Job board schemes are avoidance schemes that attempts to avoid Income Tax and National Insurance contributions (NICs) by paying contractors in the form of redeemable loyalty points. The contractor becomes an employee of an umbrella company and is then paid in two parts. The first part is a small basic wage with little or no tax and NICs deducted. The second part of the payment is used to advertise the contractor’s services on a job board. They immediately receive loyalty points in return for keeping their details on the job board. The loyalty points can be cashed in by the employees shortly after, with no deductions made for tax or NICs. The contractor usually has to pay a large fee to the third party running the job board.

Employment agencies had mixed awareness of contractor loans schemes. Those aware displayed varying levels of understanding; with some unable to provide any details about the mechanics of how they work.

None of the agencies that took part in the research thought that contractor loans schemes could be HMRC-approved.

Those aware of contractor loans schemes generally became aware through word of mouth and some had been approached directly by contractors requesting to be paid via loans or by umbrella companies promoting their use.

Some agencies felt that loans schemes *could be* attractive to employment agencies as they are sold on the basis that they allow contractors who use them to take home a higher proportion of their pay, which in turn could potentially help agencies to attract better candidates. However, no employment agencies that took part in the research considered loans schemes attractive themselves; suggesting that they are more likely to be considered attractive from a contractor's perspective.

Employment agencies had a far lower awareness of job board avoidance schemes: just one agency that took part in the research said they had heard of these prior to the interviews. This agency displayed a good level of understanding about how they worked and they did not think these schemes could be HMRC-approved.

The agency aware of job board schemes perceived use of this type of scheme to be fairly uncommon and that it could be more common at the lower end of the market. They had not heard of job board schemes being used recently and had not been approached by contractors wanting to be paid this way or by any companies explicitly promoting it as an option.

"I don't think many agencies would use this. If they are it's perhaps because their contractors are operating at the lower end of the market where every single penny counts and it is literally the difference between paying the rent and not. I don't see how these would be that attractive to businesses in our sector, 96% of our contractors are limited company contractors which means if they are operating outside of IR35 they don't need any of the loan schemes or anything else... and HMRC has access to all their accounts and returns."

Employment Agency, IT

How do employment agencies see the tax avoidance market?

There were two main perspectives with regards to how employment agencies viewed the tax avoidance market: **some contractors felt that tax avoidance has become less common among agencies and contractors; and some others suggested that use of avoidance schemes is on the rise.**

"I know the umbrella companies used to be selling their services and ways of reducing tax but that has all totally changed. I think changes to the rules means there is pretty much no difference between PAYE and umbrella companies. I would imagine all of them have gone out of business. We used to get calls from them but we don't anymore."

Employment Agency, Legal

"It's fair to say that our strict and compliant approach has not been adopted by the entire industry and because of our approach we have lost business and revenue, and we continue to do so. We can confirm without doubt that there has been an increase in tax avoidance schemes being used in contracting in the last 12 months."

Employment Agency, Health and Social Care

One large employment agency operating in the health and social care sector strongly perceived that tax avoidance was growing in the industry and stated that this was having a considerable impact on them as a business – see Case Study A.

To what extent are employment agencies using umbrella companies?

All employment agencies that took part in the research had heard of umbrella companies; and most were using them (some mentioned having multiple preferred umbrella companies). Most employment agencies using umbrellas said they ensure umbrella companies go through a strident audit process to check they are fully-compliant before they agree to use them. Some of these agencies mentioned they would only use an umbrella company if it was an accredited member of the Freelancer and Contractor Services Association (FCSA).

“We want peace of mind so they must be FCSA accredited... if they have got that accreditation then we can be confident that there is a dialogue between HMRC and that governing body.”

Employment Agency, IT

Employment agencies expressed mixed views when asked about the potential benefits of using umbrella companies. Although a few did not consider use of umbrella companies to be particularly advantageous for agencies themselves, several felt they can reduce the administrative burden placed on agencies and a few felt it meant that they do not need to worry about compliance.

“For us, it nails down the fact that everyone is compliant and we don't have to worry about anything. From a compliance point of view, it's their responsibility to deduct tax and national insurance at source and do that on behalf of the contractor – we don't have to worry about whether someone is paying tax or not because it is taken at source. But that's why we tend to use specific companies – because we need to make sure they are completely compliant.”

Employment Agency, Health and Social Care

Not all employment agencies using umbrellas displayed a detailed knowledge of how their tax liabilities in respect of individuals finding work through their agency changed when using umbrella companies – with some simply saying they did not know. One agency believed that the contractor is an employee of the umbrella company and tax is deducted at source – which means the liability sits with the umbrella company. A few other agencies were aware that changes under the Finance Act 2014 relating to employment intermediaries meant that employment agencies could be liable for any non-compliance of umbrellas.

Employment agencies felt the benefits of using umbrella companies were more prevalent for contractors themselves. They said being paid through an umbrella company was particularly advantageous for contractors working across multiple agencies because it allowed them to be flexible whilst being paid through a single source, which reduced the amount of paperwork required. (A few mentioned other ‘perks’ such as discounted gym memberships and one felt it could mean contractors can get a better credit rating).

“There are certain staff groups that should work through an umbrella. We have some candidates that may work through five different agencies, they may work through us on a Monday and someone else on a Tuesday and someone else on a Wednesday etc. Being engaged with an umbrella company makes sense then because it means they have a consolidated point of payment.”

Employment Agency, Health and Social Care

“They can offer more flexibility if the contractor is working in short-term projects, it is also more pay efficient if they are on a lower hourly wage.”

Employment Agency, IT

Employment agencies generally acknowledged that there are good and bad umbrella companies. However, feedback from employment agencies that took part in the research suggested that some had more interaction with (or greater visibility of) malpractice than others.

On one hand, a few agencies felt that it was unlikely that umbrellas were pushing non-compliant activities.

“I think now in terms of tax avoidance it’s almost impossible if you work for an umbrella company because they’re quite heavily regulated.”

Employment Agency, IT

On the other hand, some other agencies reported being aware of umbrella companies pushing non-compliance. These agencies have identified this via several channels, including: conversations with contractors, via their own internal audit processes, by hearing sales pitches delivered by non-compliant umbrellas and by receiving cold calls from umbrella companies.

“We obviously know who our competitors are engaged in avoidance. We’ll often talk to contractors who tell us about the umbrella companies they’re using with other agencies and the retention they’re getting and you just think ‘well okay, that’s 100% not compliant’.”

Employment Agency, Health and Social Care

“We had an umbrella company come in who were based in Malta. They said they were being quite clever in terms of paying small basic salaries plus some dividends. We decided we didn’t want to work with them because it sounded too good to be true, which meant it probably was. They were offering contractors 80% retention of pay through some sort of loan scheme. It was for UK contractors working overseas.”

Employment Agency, IT

Case Study A explores this through the perspective of one such agency.

Case Study A

Are non-compliant umbrellas driving avoidance?

One **employment agency operating in the healthcare sector** reported that they could confirm 'without doubt' that there has been an increase in the use of tax avoidance schemes in their sector and that this had 'ramped up' after April 2017. This case study illustrates their views and experiences.

*Non-compliant agencies are jumping on the back of the wave but they are not creating it. **Umbrella companies are driving it** because they are trying to protect their revenue and they are the ones that need to be clamped down on hard and fast.*

We conduct a detailed desktop audit and a detailed payslip audit of any third party provider we engage with. They also fill out a detailed compliance questionnaire which gives us a number of assurances, we then spot check that through payslips with workers on a quarterly basis. We have identified in our pre-engagement audits - for every one compliant provider we see, we see two non-compliant providers that we don't engage with. I'd like to say the market and the competition have that same approach but they don't.



What evidence do they have?

The agency claims to have evidence of umbrella companies engaging in non-compliance via a range of sources including:

- Evidence from their own audits
- Recordings of cold calls
- Experiences of sales pitches
- Loss of business
- Information on umbrella companies' websites

All of a sudden it's more beneficial to go PAYE through an agency than it is for an umbrella company. But then umbrella companies went into survival mode. It forced umbrella companies to start to compete and has resulted in them taking more risks and being more creative with their models.



What has caused this?

They felt that there has been a number of factors that have resulted in more umbrella companies promoting avoidance schemes, such as:

- Employment agencies (and contractors) turning a blind eye or not having resources or knowledge to challenge umbrellas
- Changes to legislation (particularly removal of the travel and subsistence rules) have caused umbrella companies to take more risks

There needs to be very clear and strong guidance and quicker turnaround in terms of enforcement. Even just publishing things like "HMRC have X ongoing cases against non-compliant intermediaries" - that starts to make these agencies more aware and more scared of the consequences. We can go to our candidates and say "are you aware that there over 100 umbrella companies currently being investigated? Are you willing to take that risk?"



What do they think could be done?

They suggested that HMRC could do a number of things to tackle umbrella companies, such as:

- Having clearer guidelines
- Shifting liability of non-compliance to the end client
- Developing an HMRC-approved framework

They suggested that HMRC needs to take more 'concrete' action as soon as possible as they are 'haemorrhaging' business due to this issue.

To what extent are employment agencies aware of recent / forthcoming changes to legislation?

All employment agencies that took part in the research claimed to follow legislative changes to the tax system that could impact on their business. Agencies reported doing this by keeping up-to-date with the news and industry press, visiting the GOV.UK website, having discussions with their accountant, and receiving advice from the REC and the umbrella companies they use.

During the discussions, agencies were asked whether they were aware of the following pieces of legislation:

- The disguised remuneration loan charge, to be introduced from April 2019 on all contractor loans after April 1999
- Off-payroll working (IR35) / Employment status: Employment Intermediaries
- Managed Service Company Legislation

Responses to these questions shows **some agencies had limited awareness of and understanding of some key changes.** Whilst all agencies said they were aware of the off-payroll working (IR35) legislation, very few were aware of the other changes asked about.⁹

A few suggested that it has been difficult to keep up with the amount of changes that have been introduced recently.

“Legislation does seem to change fairly quickly without a huge amount of guidance, so it can be quite frustrating to keep abreast of the legalities and the best way of working.”

Employment Agency, IT

Those aware of each piece of legislation were asked about the potential impacts of their introduction and agencies felt unable to comment on the implications of the legislation they were asked about, apart from off-payroll working (IR35).

Some said that off-payroll working (IR35) has had a negative impact on their business by making operating as a limited company less attractive for some contractors. A few felt that this has resulted in more contractors using umbrella companies.

“Before IR35 about 90% of our clients were going through limited companies and as far as we were aware they were paying all of their taxes. IR35 has resulted in our margins being squeezed - it's had a big impact on our business. It's meant we've lost a lot of doctors as a lot will only work outside of IR35.”

Employment Agency, Health and Social Care

⁹ Other pieces of legislation spontaneously mentioned by agencies during discussions included: Criminal Corporate Offence (CCO) legislation, off-payroll rules and changes to travel and subsistence rules.

“The introduction of IR35 has meant that some contractors that were running limited companies withdrew and joined umbrella companies.”

Employment Agency, Health and Social Care

One agency spontaneously mentioned that the removal of the travel and subsistence rules and off-payroll have had a similar impact by resulting in more contractors being pushed towards umbrella companies.

“The removal of the travel and subsistence rules was key in making some of the schemes change and start to adapt. Suddenly it's more beneficial to go PAYE through an agency than it is for an umbrella company. But then umbrella companies went into survival mode. It forced umbrella companies to start to compete and has resulted in them taking more risks and being more creative with their models. Similarly, off-payroll has solved the issue of PSCs [Personal Service Companies] but has driven some of the market into umbrella companies.”

Employment Agency, Health and Social Care

They said this has had a significant impact on their business because they have lost candidates to other agencies working with non-complaint umbrellas that are promising candidates a higher proportion of take-home-pay.

“Contractors come to us and say, ‘you can only pay me X but I'm being told via this other agency and umbrella company that I can get 85% / 90% take home.’ How do we compete with that? We have business walking out of the door?”

Employment Agency, Health and Social Care

A few agencies spontaneously suggested that the raft of changes to legislation in this space could impact negatively on the flexibility of the UK workforce and that this could be detrimental to the UK's ability to compete internationally in the long term.

“With the changes they've made in the public sector; yes, it's reduced the number of contractors that the public sector has and it has probably increased tax revenues on those people, but it means less of those roles are filled and it is more difficult to fill them.”

Employment Agency, Construction

“I think the legislation is short-sighted and what they are going to be missing out on is the long-term flexibility of the UK workforce. Now more are thinking it's not worth being self-employed so they get a low-paid PAYE job or they get out of the workforce altogether.”

Employment Agency, Legal

3 Contractors

This chapter explores contractors' views on tax avoidance. It explores what makes tax avoidance schemes attractive to them, how they are targeted by those promoting tax avoidance schemes and examines the extent to which they entered their schemes wittingly; before exploring their experiences of and attitudes towards the prospect of settling their case with HMRC.

How do contractors think and talk about tax avoidance?

During the qualitative discussions, contractors were asked a series of questions to explore their general attitudes towards tax avoidance.

Whilst self-proclaimed levels of knowledge about tax varied among contractors who took part in the research; **many contractors did not display a detailed, accurate and consistent understanding of what tax avoidance is (and what it is not) during the interviews.**

"I am somewhere below zero in terms of my knowledge of tax and my interest in the subject. I know nothing about it."

Contractor, Health and Social Care, Open Case

"I haven't got a clue about tax because it is far too complex, the expectation from HMRC is that we know all of this stuff, but it is impossible to know."

Contractor, Finance, Closed Case

"I had no desire to understand or even learn about tax because I often work seven days a week so it was better for me to farm that stuff off to the so-called experts to deal with."

Contractor, IT, Open Case

Contractors' views about the following points also provide some useful context for some of the key findings of the research that will be discussed in further depth later in this chapter:

- **How tax planning, tax avoidance and tax evasion differ.** Whilst some contractors felt it was clear how these differ, a number gave responses that suggested a lack of knowledge and understanding – with some simply stating that they did not know the difference. Most contractors agreed that it is sometimes very difficult to differentiate between tax planning, avoidance and evasion.

"Tax avoidance is illegal... I wouldn't even know where to begin to think about how it is different to tax evasion."

Contractor, Construction, Open Case

"Drawing a line between tax avoidance and tax evasion is not easy to do at all, I kind of feel they are the same thing."

Contractor, Health and Social Care, Open Case

“I believe they are very similar; basically, evasion and avoidance are one and the same.”

Contractor, Health and Social Care, Closed Case

- **Whether one can be engaged in tax avoidance and still be compliant.** Most contractors suggested that one can be engaged with a tax avoidance scheme whilst being fully compliant. Crucially, contractors generally considered the avoidance schemes they had been involved with to have been legal at the point at which they entered (this is discussed in further detail later in this chapter).

“You can still be compliant if you are engaged in a scheme – definitely, because you are not breaking any rules. Tax avoidance is not illegal.”

Contractor, Finance, Closed Case

- **The extent to which paying the correct amount of tax is a moral obligation.** Most contractors said that paying tax was a moral / social issue. These contractors acknowledged that people need to pay their ‘fair share’ of taxes for public services to operate. On the other hand, a few contractors expressed the view that payment of taxes is only a legal issue, not a moral and / or social one. These contractors felt that payment of tax cannot be considered a moral issue since morality is a concept that is ‘too subjective’.

“I think morally you’ve got to pay taxes because if you don’t all public services would grind to a halt... if you didn’t pay tax there’d be no money in the pot to meet all those needs within the community, you’ve got to pay a tax, everyone has to.”

Contractor, Health and Social Care, Open Case

“I do think it is a question of morality because it means you’re taking from society and you’re not really putting in what you should be.”

Contractor, Health and Social Care, Open Case

“It is a moral issue? I personally don’t have a problem with it, whether you think it is right or wrong it is not the same as legality.”

Contractor, Health and Social Care, Closed Case

“Tax is not a moral question, it’s a question of legality. Unless someone is going to hold a moral court it’s all about whether you have done anything wrong in the eyes of the law.”

Contractor, Health and Social Care, Closed Case

Feedback from contractors suggested that their views about tax avoidance are primarily influenced by information from the following channels:

- **The way in which it is reported in the media.** Contractors tended to get most of their information about tax avoidance from the news. Most reported that this information tended to focus on high profile cases of tax avoidance among large business and high-profile individuals and did not give much clarity in terms of what is acceptable.

“Mostly in newspapers. It’s more just when celebrities are in the news and it’s not necessarily detailed in terms of the ins and outs of tax avoidance.”

Contractor, Health & Social, Closed Case

- **How it is discussed among colleagues.** Contractors said it was common for groups of contractors to discuss tax amongst each other and this often focused on take-home-pay. Feedback from contractors suggests that **this appears to be giving the use of schemes an air of legitimacy because contractors feel that ‘everyone else is doing it’.**

“Groups of contractors often have conversations about our percentage take-home pay... if someone starts talking 80%+ you know it’s one of these schemes.”

Contractor, IT, Open Case

- **The information they get from agents / advisers.** Some contractors reported that they tended to get most of their information about tax from their accountants because they felt it was ‘too complex’ for them to understand.

“I mainly get information through my accountant. I do rely on them as it’s their job and that’s what you pay them for.”

Contractor, IT, Open Case

Contractors were relatively less likely to report actively seeking advice or information about tax compliance and avoidance from HMRC. A few contractors had consulted the GOV.UK website for information. However, they felt that the information about tax avoidance available could be simpler to find and easier to understand.

“It’s not easy to find stuff on the HMRC website – you don’t have time to read through pages and pages of jargon.”

Contractor, Finance, Closed Case

In addition, some contractors suggested that the GOV.UK website could have clearer explanations about what some of the information shown on the website is and what it can be used for.

“The information on the site is not clear. I went on the HMRC site when the news started coming out about the schemes. I found a list of registered schemes, of which the number of my

scheme was on there. I thought, 'Well, okay. It's a registered scheme'¹⁰. It's fine'.

Contractor, Health and Social Care, Open Case

How do contractors see the tax avoidance market?

Contractors perceived the use of avoidance schemes to be 'very common' among contractors, employment agencies and umbrella companies. Those who expressed this opinion seemed to be basing this on their first-hand experiences and they reported they were aware of many other contractors in their industry using the same or similar schemes.

"People do it all the time. Some of it is culturally normalised... there are very few people who I have ever met who don't do something that is a bit obscure so as not to have to pay some tax."

Contractor, Health and Social Care, Closed Case

"I think it's widespread. My colleagues are open and share information about it. They will say 'why don't you try this umbrella company?' I've had doctors come to ask me about them wanting to do locum jobs and looking for ways of reducing their tax bill."

Contractor, Health and Social Care, Closed Case

"I would say it's fairly common among some of the companies that work in the offshore industry. There are still a lot of companies and people who actually still go through these schemes."

Contractor, Health and Social Care, Closed Case

Some contractors also mentioned they knew of contractors operating in other industries using schemes too. Other sectors most commonly mentioned included finance, health and social care, construction and oil & gas.

The view that use of schemes is perceived to be widespread was used by some contractors to justify their own involvement in their scheme.

"Most people feel it is a little grey area that is 'part of the game' and if others are doing it why can't I?"

Contractor, IT, Open Case

¹⁰ Sometimes promoters claim to their clients/avoidance scheme users that a Disclosure of Tax Avoidance Schemes (DOTAS) Scheme Reference Number is a marker that HMRC has approved a scheme. This is not true, these are allocated when HMRC have been made aware of a scheme following a declaration that a scheme meets a DOTAS hallmark.

What factors make tax avoidance schemes attractive / unattractive to contractors?

Contractors stated that **tax avoidance schemes were attractive because a) schemes allowed contractors to keep a higher proportion of their pay and b) use of schemes reduced the administrative burden placed on contractors.** All contractors who participated in the research cited one or both of these as the main reasons why they considered the schemes to be attractive when they entered – though the weight given to each factor varied by contractor.

Most contractors said they ultimately got involved with their avoidance scheme due to fact that it benefitted them financially. Companies administering avoidance schemes told contractors that use of the scheme would allow them to take home 80%+ of their wage, as opposed to 65% or 70%.

“Why would I retain 70% of my wage when I can retain 80%? Ultimately, I decided to get involved with the scheme to get an extra 15% take home pay and I didn't have to run my own limited company.”

Contractor, IT, Open Case

“Everything seemed positive even though they will charge you 5% or 10% for being on the scheme you got 80% of your earnings. There wasn't anything unattractive really.”

Contractor, Finance, Closed Case

Schemes were also attractive to contractors because the companies administering the schemes took care of all the associated administrative burden and paperwork on behalf of the contractor. Many contractors said this made use of their scheme a far more attractive proposition than running their own limited company which they perceived to be far more burdensome.

“The purpose of an umbrella company for me was to take away the headache of the admin burden related to running my own limited company.”

Contractor, Health & Social, Closed Case

However, **almost all contractors said they only considered schemes to be attractive due to these factors because they genuinely felt they were legal at the time at which they entered their scheme.**

“At the time I genuinely did not think I was doing anything illegal otherwise I wouldn't have entered into it.”

Contractor, IT, Open Case

Most contractors were told that the scheme they were entering was HMRC-approved (this is key to how schemes are marketed / sold to contractors and will be discussed in further depth later in this chapter). As a result, they felt that it was an easy decision to get involved with the scheme.

“It was all about maximising the amount of money I could take home. It made sense. They said it was registered with HMRC which I interpreted to mean “approved”. It was almost a no brainer.”

Contractor, IT, Open Case

Feedback from many contractors also suggested they considered schemes attractive because their widespread use gave them a sense of legitimacy. As discussed above, most contractors said that they considered use of schemes to be ‘normal’ in the contracting the industry.

“If you just see one of these companies selling these schemes you might think it’s not legal. When you see 7 or 8 of them you think it must be fine and that there must be some kind of loophole that means it is OK.”

Contractor, Health and Social Care, Open Case

Contractors who participated in the research reported they knew many other contractors were using the same / similar schemes, seemingly without issue, and that this also made the scheme seem attractive.

“It was attractive because I knew of colleagues that were already using the scheme and they told me it was really easy to get involved.”

Contractor, IT, Open Case

“At the time it all seemed fine. Partly because of the numbers of people on their books – it wasn’t a fly-by-night thing with ten or a twenty people, you were talking thousands of people on the books of this scheme.”

Contractor, IT, Open Case

How are contractors targeted by promoters of tax avoidance schemes?

This research shows that **contractors are being targeted by promoters of avoidance schemes in a variety of ways**, including via the following channels:

- *Personal recommendations via word of mouth.* Companies administering avoidance schemes commonly target new recruits via a process of personal recommendations / referrals that incentivise those who get others onboard. Contractors reported that these recommendations can come from other contractors, recruitment agents and friends / family.

“If you refer someone into a contractor loans scheme you get £500 for every person you refer so there is an incentive there so

this is how they gain that critical mass ... it is a motivator and they actually don't have to do anything."

Contractor, IT, Open Case

"I was initially told about the company by a recruitment agent who didn't actually get me a job and probably was on commission. They mentioned this company and I went to talk to them and it went from there."

Contractor, IT, Open Case

"I went to the agency to register then they told me about the umbrella company – straightway as part of the registration. They said it was "better for you and you save a lot of money". They said most people were joining it."

Contractor, Finance, Closed Case

"A friend of mine had been doing similar schemes for years and he introduced me to it. He was someone I'd known for a long time, and I asked him a few questions and thought I would go down that route."

Contractor, IT, Open Case

- *Adverts on the internet.* Some contractors reported seeing adverts from companies administering schemes online via a range of sources including: internet employment companies, on contractor forums and via social media (e.g. Facebook and LinkedIn, which were mentioned by a few contractors). In addition, a few contractors reported that they became aware of companies administering schemes after doing general internet searches.

"I still get a lot of targeted adverts online and via social media from these types of companies selling avoidance schemes."

Contractor, IT, Open Case

"I was Googling accountants and I came across this website and they were advertising 85% take-home pay so I rang them and had a conversation about it."

Contractor, Health and Social Care, Open Case

- *Cold calls from companies administering schemes.* Mirroring the feedback from some of the employment agencies that took part in the research, some contractors also mentioned receiving cold calls from companies promoting the use of avoidance schemes.

"Someone called me one day from a company that said that as I was a contractor I was probably paying too much tax, and that they had a better scheme via an umbrella company."

Contractor, Health and Social Care, Open Case

Contractors were not sure how companies making these cold calls had received their contact details. However, a few suggested that recruitment agents / employment agencies had passed on this information.

There is evidence to suggest that those promoting avoidance schemes often used various methods in conjunction with each other. Case Study B gives an example of a contractor who initially got involved with a scheme after replying to a fake job advert online, which triggered the promoters of the scheme to call him immediately after.

Contractors provided mixed feedback in terms of whether they were approached by companies promoting schemes (via word of mouth or other communications, like those mentioned above) or whether they actively sought out their scheme. However, the research suggests that **the influence of colleagues / friends / family is a key factor in encouraging contractors to enter avoidance schemes.**

In some cases, it appears the recommendation from a family member gave the scheme credibility (as the contractor considered their family member to be a credible source):

“My brother in law was already involved and he recommended me. If anybody else had mentioned it I probably wouldn't have but it's only because it's family ... I know their characters are very above board.”

Contractor, IT, Open Case

On the other hand, it was not always the case that contractors used schemes that their colleagues / friends / family were using, but that the recommendation itself acted as an impetus for them to explore the market themselves.

“I learned that I could make more from other contractors, so I looked at various companies' websites and went for the one I liked best.”

Contractor, Health and Social Care, Open Case

Case Study B

Keith's Journey* (Contractor, IT, Open Case)

Keith is currently working as an IT contractor for a bank and has been working as a contractor in the IT sector for 20 years. He says that he has no interest in tax and has never sought any information about tax issues. Keith's case is currently ongoing, he has been approached by HMRC regarding his payment of taxes over a five year period – he has paid two accelerated payment notices and currently has three outstanding. Keith is keen to agree a final settlement with HMRC as soon as possible.

I went along to this meeting at the Embankment and there were a few guys in shiny suits delivering PowerPoint presentations about loan schemes. This guy from a Big Four firm came in said it is okay and gives it the tick. That really was the turning point. When he said 'I can tell you it is bona fide and HMRC know about it' the feeling in the room changed.

Keith said that tax avoidance schemes are something that are often discussed among contractors because the schemes often recruit via incentivised referrals.

Keith got involved with a loans scheme because he replied to a 'fake job advert' online, after which he received a sales call from a company administering the scheme.

During the telephone conversation Keith was invited to go to a seminar being held by the company promoting the scheme. He was told by the company's lawyers and accountants that the scheme was legal and HMRC-approved.

Those conversations come up all the time... If you refer someone into a contractor loans scheme you get £500 for every person you refer so there is an incentive there so this is how they gain that critical mass ... it is a motivator. It makes it seem OK if everyone is doing it.

It was an easy decision. Why take home 70% when you can take home 80%? I didn't think there would be any issues because they said it was HMRC-endorsed. I felt like I was in the hands of experts.

They put out fake jobs on websites so as a contractor when you are looking for a job you will see this wonderful contract which might have a vague job spec and it will invite you to apply ... five minutes later you will get a call, 'Hi, we are wealth managers based in the Isle of Man.'

Keith said that he had no concerns about the legitimacy or legality of the scheme at the time and that it was an easy decision to get involved with the scheme due to this.

Keith said it was a 'shock' when he received an Accelerated Payment Notice (APN) payable within 90 days. He felt that 'settling the case' hadn't been discussed and he had no option to pay by April 2019 to avoid the amount he owes increasing.

I honestly think people don't understand what they are getting themselves in to and just go with it. People just don't have a complex understanding of tax.

Keith wants to get the case settled as soon as possible but feels this has been hampered by issues with HMRC's correspondence which often contain mistakes which take a long time to be corrected. His opinion of HMRC has declined during his communication as it's taking too long to settle the case.

It's meant a lot of sleepless nights. There's been a lot of worry and stress in my personal life because of it. It wasn't something I thought was coming or was going to happen so it was a massive cause of stress and worry.

I asked them for a final settlement in November and it is now April and I am still waiting for that figure ... they seem wholly inept in being able to provide the simplest information.

Keith wants more clarity in terms of how the amount of money HMRC say he owes is calculated. He thinks it would be useful to have some sort of 'portal' showing this, how much he has paid and how much he still has to pay.

Summary

This case study illustrates a number of key themes that have emerged during this research that appear fairly common for contractors going through this journey. It demonstrates how contractors perceive use of avoidance schemes to be 'normal' and shows that those administering the schemes use a variety of methods to target contractors. In addition, it shows how sales pitches, their location and who is delivering them give the schemes an air of legitimacy. Like most other contractors, Keith was told that the scheme was completely legal and HMRC-approved and so feels he unwittingly got involved.

IFF Research

** This is a pseudonym*

How are contractor avoidance schemes marketed / sold to contractors?

The main marketing messages being used to market / sell avoidance schemes to contractors are:

- **“You can take home 80%+ of your pay”** – as discussed above, there was consensus among contractors that this factor made the scheme attractive when they first entered. As such, this is a key marketing message for those promoting schemes.

“They promised you could take away 80% of your salary. My salary increased by about £250 a week.”

Contractor, IT, Open Case

“They just said you’ll get 85% of what you earn and I was working it out and I thought, ‘That’s more than I get now, so let’s look at it.’”

Contractor, IT, Open Case

- **“We will take care of all of the paperwork”** – again, those promoting the schemes play on this element as they know it is attractive to contractors.

“They said they would take away the paperwork. There was a shedload of paperwork for me to deal with before... people think they can hand it over to these guys and they will do the whole payroll and the whole lot.”

Contractor, IT, Open Case

- **“The scheme is completely legal”** – all contractors that participated in the research said they were told the avoidance scheme they entered was legal.

“It was made very clear that it was compliant within the tax laws.”

Contractor, IT, Open Case

- **“The scheme is HMRC-approved”** – most contractors reported that they were told that the scheme was HMRC-approved. However, many said that they were not given any hard evidence of this at the time and only a few explicitly mentioned that promoters of the scheme used a Disclosure of Tax Avoidance Schemes (DOTAS) reference number to provide apparent evidence for the scheme being approved by HMRC. DOTAS reference numbers do not indicate HMRC approval.

“The DOTAS thing was a big thing for me. That, in my mind, gave it a stamp of approval. I thought that as long as it was declared as part of that, which it was, it was fine.”

Contractor, Construction, Open Case

At the time of taking part in the interview, some contractors felt, looking back, they should have known that the use of the scheme they entered was 'too good to be true' but that a combination of several factors meant that they considered the scheme they entered to be 'all above board'. Feedback from contractors suggested that the following factors were key to this as they meant that contractors perceived the companies administering the schemes to be professional and their products legitimate.

- **The companies promoting the schemes were thought to have 'compelling' sales pitches.** Contractors felt that those administering the scheme came across as professional and knowledgeable during their correspondence with them. Some felt that they 'had what felt like a legitimate answer for everything' and others mentioned that their pitches were tailored to the contractor, making them more impactful.

"Their sales pitch was very convincing. There were a lot of reassurances at the time and lots of promises that this was HMRC compliant. In fact, they actually quoted the [large media organisation] who I was actually working for as a contractor at the time saying that there are over 3,000 other [large media organisation] employees on this scheme."

Contractor, Management, Open Case

- **Who was delivering these sales pitches and / or said to be involved in the scheme.** Most contractors reported that sales pitches from those promoting the scheme were often delivered by lawyers or accountants (some of which were said to have previously worked for HMRC) who emphasised that the scheme was legal (see Case Study B for another example of this).

"There was that little bit in the back of my mind saying, 'I'm not sure about this.' They said, 'we've got this senior QC who's a senior tax lawyer and he's gone through it all and it's all above board and it's registered.'"

Contractor, Health and Social Care, Open Case

- **The location of some of the companies promoting schemes.** A few contractors reported attending seminars delivered by those administering the schemes from impressive buildings in central locations. Again, they felt this made the scheme seem legitimate.

"I went in there feeling good about it with the recommendation, but actually feeling very apprehensive about going into contracting because I knew nothing about contracting and the financial side and then when I went to see the accountant who had a gorgeous office right next to the Bank of England in the heart of the financial community, the minute I walked in the door I felt so at ease, I thought yes I'm going to be happy with this."

Contractor, IT, Open Case

- **Companies promoting schemes made contractors go through due diligence checks before they could enter the scheme.** Those mentioned included the need to provide valid ID and proof of address, and one contractor mentioned they had to provide details of a guarantor to enter the scheme.

“They had professionals on it: lawyers and qualified accountants with years of experience. It also felt fine at the time because of their head office and where it was. You even had to get someone else to sign for you as a guarantor. They checked everything and you have someone guaranteeing that they have known you for five years.”

Contractor, Management, Open Case

“They were quite diligent and did a lot of know your client stuff with me. That was another factor that made it seem legitimate and trustworthy, the fact that they were checking my background so thoroughly and that they wanted my passport, proof of address and bills as evidence. It took a total of 6 weeks to get all of that sorted.”

Contractor, Management, Open Case

Are contractors wittingly / unwittingly sold avoidance schemes?

During the discussions, contractors were asked about whether they felt they had got involved with their scheme wittingly or unwittingly. **Most contractors felt that they had got involved with their scheme unwittingly.** They stated that they did not know that their involvement in the scheme would result in them being contacted by HMRC because they genuinely felt that the scheme they were involved with was legal and HMRC-approved (due to the way in which it had been sold by those promoting it).

“I never expected to have any contact from HMRC. I definitely feel that I got involved with the scheme unwittingly. And I would have never got involved if I knew then what I know now. I didn't get involved to avoid tax.”

Contractor, IT, Open Case

During the interviews, most contractors felt that they would have never got involved with the scheme in hindsight. **Most considered themselves victims of the companies administering schemes.** Many suggested that they did not know enough about tax and the mechanics of the scheme they were on to be able to identify any issues or challenge the key messages of those promoting the scheme prior to joining it.

“To an extent most people don't know how companies work and there are a lot of 'advisors' who will sell you things that you know are almost too good to be true; but then again, the schemes are always so convoluted which means it's difficult to understand what is legal and what is not.”

Contractor, IT, Open Case

“I can honestly say that I didn't know what I was getting myself into and I didn't understand all the ins and outs of the scheme and how the company worked in terms of paying tax.”

Contractor, Health and Social Care, Open Case

"The keyword I'd use is misinformed... I'm not going to say by my colleagues who recommended I get involved because they thought what they were doing was right, but I suppose ultimately it was the fault of company in question."

Contractor, Health & Social, Closed Case

As a result, most contractors reported they felt 'shocked' when they received a letter from HMRC informing them they had been involved in a tax avoidance scheme and that they owed HMRC money.

"I was not expecting it because it was all above board, I was told by colleagues everything was legal, everything was okay... I believe to this day that it was legal."

Contractor, Health & Social, Closed Case

However, some contractors' responses suggested that some contractors who said they had 'doubts' about the scheme or felt that it was 'too good to be true' at the time may have been reluctant to explore the matter further and may have just been willing to take what they were being told by those promoting the schemes at face value due to the purported benefits of joining the scheme.

"I assumed there was evidence to show it was HMRC-approved, once again I have limited knowledge of tax I don't remember them mentioning it and I don't remember asking them, I just assumed everything was above board."

Contractor, Health and Social Care, Closed Case

"They assured me that they were HMRC-approved, hearing that from a professional I just assumed that they were telling the truth... even if they had of explained how approval worked, I don't think I would have probably been able to fully retain and understand the information."

Contractor, Health and Social Care, Open Case

"It was all very complicated, and you go, whatever and then they show you some numbers or give a take-home-pay projection and you go oh!"

Contractor, IT, Open Case

How do contractors with open cases view avoidance settlement opportunities?

Contractors with open cases were at various stages of the ‘settlement process’ at the time of the research. The wide range of views they expressed about their experience of communicating with HMRC about their settlement opportunities reflected this and the details of their individual cases, which varied considerably.¹¹

Some contractors with open cases said they wanted to settle their case with HMRC as soon as possible. Many reported they had already started to make repayments or had corresponded with HMRC about the prospect of doing this. Some perceived that they had been engaged in these discussions with HMRC for a considerable period. A few mentioned they had been in discussing their case with HMRC for a period spanning 2-3 years. It is possible that these cases involved several exchanges around the technicalities of the arrangements used. It could have also been the case that contractors were conflating multiple cases if they had multiple tax years under review at the same time.

Those who wanted to close their case as soon as possible were primarily motivated by the desire to stop interest accruing on their repayments and because they no longer wanted to have the case ‘hanging over them’. Some also suggested that they wanted to get their case resolved as soon as possible because they never intended to do anything wrong in the eyes of HMRC and that they wanted to rectify this and move on as soon as possible.

“When I first started out I didn’t know anything about tax. I didn’t know it would be nonsense when they said I could take home 90% of my pay. The truth always comes out and if you delay things you are just going to end up having to pay more. When I initially received the letter, I called up HMRC and they were very helpful. They said, “as long as you declare things there won’t be any penalties and we are not out to get you”. I have paid all the money. I admitted that I made a mistake and I live by it.”

Contractor, IT, Open Case

“To be honest I just want the whole thing to be over and done with.”

Contractor, Health and Social Care, Open Case

“It has caused a lot of worry and stress in my personal life because of it so I just want to get it all sorted. It wasn’t something I thought was coming or was going to happen so it was a massive shock.”

Contractor, IT, Open Case

¹¹ IFF Research did not know any details of contractors’ cases with HMRC prior to conducting the research. The only information they received about each contractor case was that given by the contractors themselves during the interviews.

Many of these **contractors were frustrated by the avoidance settlement opportunities available to them, seeing the process of dealing with HMRC as being unclear, protracted and lacking in transparency** (see Case Study C for an example of this).

Several contractors reported that the information they received from HMRC was not always clear (particularly in terms of how much they owed and how this was calculated). In addition, some said that they had received incorrect information in letters from HMRC.

“I just want to get the whole thing sorted but they take so long to get back to me and there are so many mistakes in their letters. I asked them for a final settlement in November and it is now April and I am still waiting for that figure. They seem wholly inept in being able to provide the simplest information like how much I owe and how they reached their calculation.”

Contractor, IT, Open Case

They also felt that it often took too long to get a response from HMRC and that they were often left for long periods of time without having any communication about the status of their case, which meant that some were unclear about where they stood at the time of their interview. Some felt that this was a deliberate tactic to allow HMRC to ‘pile on’ interest charges to the amount owed.

“I wrote to them regarding my case and stated the original assessment of how much I owed was incorrectly calculated and asked them to contact me. They got in contact to say they’d closed the account with the debt collection agency but didn’t give any further details. I’ve not heard from them since. They should draw a line underneath it at least instead of piling on charges, particularly when they are quite gross charges in comparison to the amount I supposedly owe.”

Contractor, IT, Open Case

In addition, feedback from some contractors suggested there is a lack of clarity around what constitutes case settlement – with some contractors appearing to conflate payment of Accelerated Payments Notices (APNs) with settlement.

“I have three open enquiries for other years so I haven’t been issued APNs for those three years.”

Contractor, IT, Open Case

Feedback from a few contractors also suggests they view the settlement process as unnecessarily antagonistic and hostile, especially given that many contractors perceive themselves to have fallen victim to companies administering the schemes. A few of these mentioned that they had to engage with HMRC directly because the company that had administered their scheme had ceased trading.

Case Study C

David's Journey* (Contractor, IT, Open Case)

David is a software engineer. He worked for a multinational mass media and information firm for over 20 years before taking voluntary redundancy. He then decided to go into contracting. David said he had a lack of understanding about tax when he entered the scheme but that he did so because he was told it was HMRC-approved. He has had ongoing correspondence with HMRC about his case which covers three tax years. He has dealt with HMRC personally (the umbrella company he was using dissolved). He admits he made a mistake and wants to settle his case but feels this has been prevented by a lack of timely and clear correspondence from HMRC. He was open and transparent about the first year but felt this complicated things so he has not adopted the same approach for queries relating to the second and third years.

One of my colleagues had been using them for a while and he set us up

David sought out the scheme after it was recommended to him by associates in the industry.

David visited their website and subsequently had a face-to-face meeting with the company that administers the scheme. He was also considering setting up a limited company but considered that to be more work and stress so elected to get involved with the avoidance scheme.

When I first started out I didn't know anything about tax because the company used to deal with everything. I didn't know it would be nonsense when they said I could take home 90% of my pay. I was drawn in by what they said in terms of being HMRC-approved and using the same accountants as HMRC. Everyone is using loopholes and if there is a loophole then it must be legal.

Initially David did not think that the scheme would be of interest to HMRC as he was assured by the company's lawyers and accountants that it was legal and had HMRC's approval.

They made an agreement, I understand why they wanted to check what I gave to them, they've checked it through and now they want to change it. If they make another agreement, what's to say they are not going to break it again?

David received a letter from HMRC stating they had identified that he had been engaging in tax avoidance. He got in touch with his agency and they advised him to deny it and not get back in touch with HMRC.

I don't think I would have ever gone ahead with it if I knew that it wasn't approved because I never wanted to do anything illegal. It's the biggest thing I regret now - it's caused me so much stress.

David said that he regrets giving HMRC 'too much information' as it raised more questions. He is unsure about how HMRC has calculated how much he owes and he is now unsure about the status of his case. He wants to close it as soon as possible to avoid more stress and further fines. He has subsequently received correspondence about other years but elected not to be as open.

David was surprised when HMRC contacted him about the first year as he believed it was all above board. He declared everything in the following self-assessment and highlighted which parts were linked to the loans-scheme. HMRC agreed how much he owed and he paid it all from his savings. HMRC then sent a request for David to provide all of his bank statements.

They must make a lot of money from these schemes and I'm not really sure what might have happened if I grassed them up. So I decided to just stay hidden.

I answered the questions and did not provide the details like I did previously. They said that's all fine and the case is closed. So with the third year, the situation is exactly the same and they won't close it because I gave all of this extra info.

David has been dismayed by a perceived lack of timely and clear contact from HMRC which he feels is preventing the case from being resolved. He now distrusts HMRC and is contemplating no longer being a contractor.

I just feel like giving up and going on benefits and get the government to pay me.

Summary

This case study illustrates a number of key themes that have emerged during this research that appear fairly common for contractors going through / that have gone through the process of settling their case with HMRC. A number of contractors reported that settling their case has been a long process. They felt that HMRC correspondence can often be unclear (particularly in terms of how they calculated how much they owe) and that they have to wait too long between correspondence. Several contractors stated they were unsure about the status of their case at the time of interview due to this. David, like many others, suggested the whole process has caused him to distrust government. He was frustrated that HMRC are targeting their efforts at an individual level rather than targeting umbrella companies where he perceived most of the responsibility to lie.

* This is a pseudonym

Some other contractors with open cases stated that they had not contacted HMRC about the prospect of settling, with a few saying they are intending to challenge HMRC.

The likelihood of a contractor deciding against communicating with / challenging HMRC about their case seems to be influenced by several factors, including: their ongoing relationship with the company administering the scheme and the amount of money they owe / the number of financial years that are under dispute.

Those with an ongoing relationship with the company administering the scheme seemed more inclined to let the company deal with HMRC on their behalf and were reluctant to engage with HMRC directly. Most of these contractors had been advised against doing so by the companies administering the schemes. Many contractors felt that they did not have the expertise to deal with HMRC as an individual and felt it better to leave it to the company administering the scheme due to this.

“They said realistically it is better for you not to go to HMRC. We should all stick together because in principle they have argued a case that is, as far as they are concerned, that legally puts us in the right. HMRC have been slow otherwise they would have prosecuted by now. I am on a hamster wheel now. If I settle I will have to pay double the amount of tax which works about £80,000. If it’s that I am going bankrupt. If I deal with HMRC alone I will be a pebble on a beach and they will just stomp on me.”

Contractor, IT, Open Case

How do contractors with closed cases view their experience of settling?

Contractors with closed cases said they elected to close their case because: they wanted to avoid accruing further penalties, they wanted to ‘move on’ from their case which was having a ‘paralysing’ impact on their lives and they wanted to avoid other fees (such as lawyer fees).

“The main benefit is that interest stops accruing. Parting with a big amount of money was easy for me as I didn’t know what I had signed up to at the time. I don’t really want anyone to think that I would get involved in something like that. I don’t like getting in trouble anyway. I didn’t want anyone to think that I would knowingly get involved and it does make me nervous. It was a worry.”

Contractor, Health and Social Care, Closed Case

Those who had closed their case suggested they faced many of the issues faced by those with open cases at the time of the research such as a lack of clarity and transparency (see Case Study D). The research suggests that those whose case related to a shorter period found it easier to close. For example, there was one contractor who withdrew from their scheme within six months of entering it.

Case Study D

Robert's Journey* (Contractor, Oil & Gas, Closed Case)

Robert works in the Oil & Gas industry. His work involves taking short-term contracts in different locations. Robert felt his knowledge of tax was 'good' but that it is not clear how tax avoidance and tax evasion differ. He got involved with a tax avoidance scheme after being told by a recruitment agency that it was the only way that he could take-up the contract. He decided to resolve his case by paying what HMRC said he owed to stop interest accruing.

I was sceptical, but there are times when there are loopholes in tax legislation that people can use. So, I was acceptant of the fact that, yes, they had found a tax loophole.

Robert was told that he had to join the scheme by the employment agency offering the contract. The scheme was referred to as a PAYE Company.

The agency passed his details to the PAYE company, who then got in touch and set up a contract so he would be an employee through their company.

Robert did not think the scheme would be of interest to HMRC as it was referred to as compliant and HMRC approved. The company had documents confirming they were working within the guidelines of HMRC. They sent Robert information explaining that the scheme was legal at the time.

Not everyone can find a large lump sum quickly as not everyone is financially settled, particularly some contractors. Six months to a year might be a better period.

He felt that the original letters he received did not make it clear that the amount HMRC said he owed did not include interest. He found this out after hiring an accountant. Robert then decided to pay the amount HMRC requested to stop further interest accruing.

Robert received a letter from HMRC asking for information and tax returns on two companies he worked for in 2013. A second letter flagged one of the companies as a potential tax avoidance scheme.

I was upset and annoyed with the company which actually got me into this. You hope they are getting pursued the same, which, the chances are, they're not.

Despite paying what he owed to close the case, Robert says he has not received confirmation of this or that his case is closed. Robert feels that HMRC's approach is rather 'brutal', and he felt giving a 90-day period to pay is not long enough. He also felt it is unfair that the company administering the scheme is not being investigated.


When I spoke to HMRC the figures that they gave me didn't include interest. It transpired that there's always interest to be added. So it was either let it run on or you pay it and you're done.

We are rabbits caught in headlights whereas the big companies get off scot free.

Robert feels that HMRC could support taxpayers who have gone through similar circumstances by being more understanding and having clearer guidelines about what is acceptable.

Summary
This case study illustrates a number of key themes that have emerged during this research that appear fairly common for contractors going through / that have gone through the process of settling their case with HMRC. As with other contractors that have settled, Robert was primarily motivated by the desire to stop any interest accruing on what he owed. His case also provides another example of contractors perceiving HMRC correspondence to be unclear during the process of settling. Like most other contractors, he blames those administering the schemes and thinks they should be punished. He suggested that HMRC could create clearer guidelines and be more understanding to help others through the settling process.

HMRC should make matters crystal clear and make it easier to find information on their website. I've tried looking and the information contradicts itself.

 IFF Research

* This is a pseudonym 44

What support would contractors like from HMRC to help them through the process of settling?

During the interviews, all contractors were asked what HMRC could do to help them through the process of settling their case. The most common suggestions were as follows:

- **Stop companies administering these schemes / punish those that do**¹². This suggestion was most commonly expressed by contractors. As discussed, many perceived themselves to be victims of those administering the schemes giving them misleading and incorrect information. Many contractors said they would have never got involved with the scheme in the first place if they knew that their involvement would have resulted in contact from HMRC. Therefore, they suggested that HMRC should do more to stop the companies themselves because it would negate the need for many contractors to have to go through the settlement process.

“We are not the experts that’s why we pay these people to sort out our taxes, I just get the feeling like I’m being treated like a criminal. I think they should concentrate on those accountants and agencies who do all this.”

Contractor, Health and Social, Open Case

- **Provide more and clearer guidance around what is acceptable to HMRC and what is not.** As most contractors thought the scheme was legal and HMRC-approved at the time at which they entered it, contractors felt that more and clearer guidance and what is acceptable would discourage many from joining schemes in the first place.
- **Be more transparent / responsive / collaborative during the settlement process.** Contractors felt that it would be easier to engage with the settlement process if it was more transparent because it would make it easier for them to know about the status of their case. Some also suggested that they would be more inclined to engage with HMRC directly if they were more collaborative and their communication less ‘aggressive’.

“Anyone on a contractor loan scheme should have a portal where you can log in to and see what HMRC is saying is owed and how that is calculated then you could do an online payment and start settling that down. That would give people a degree of comfort to say I have this problem, but I am chipping away at it and sending HMRC ten grand and then another ten grand. I

¹² HMRC already has two pieces of legislation which are focussed on those who promote and/or enable tax avoidance:

- **the Promoters of Tax Avoidance Schemes (POTAS)** which was introduced in the Finance Act 2014. The POTAS legislation is designed to encourage a small and persistent minority of tax avoidance promoters to change their behaviour voluntarily or face an escalating series of sanctions so that they are required to change their behaviour.
- **the penalty for Enablers of Tax Avoidance** which was introduced in Finance (No. 2) Act 2017. Each person that enables abusive tax arrangements is liable for a penalty of 100% of the fees they earn when HMRC defeats a taxpayer who used those arrangements.

have no means of actually seeing what money is owed which makes me question the validity of the figures.”

Contractor, IT, Open Case

“If they’d said, “come and talk to us and let’s have an open and frank conversation about how you are able to remediate” that then that might have been less aggressive. That would have probably encouraged me to speak to HMRC.”

Contractor, Construction, Open Case

To what extent are contractors aware of recent / forthcoming changes to legislation?

During the discussions, contractors were asked whether they were aware of the following pieces of legislation:

- The charge on outstanding disguised remuneration loans to be introduced from April 2019 / Potential tax liability on all contractor loans after 1999
- Off-payroll working (IR35) / Employment status: Employment Intermediaries
- Managed Service Company Legislation

Contractors generally had a low awareness of recent / forthcoming changes to legislation. Most were aware of the Disguised Remuneration Loan charge which will arise on 5 April 2019 on all contractor loans after April 1999 (though very few knew the specific name of this legislation and tended refer to “new rules about HMRC taking retrospective action”¹³ instead) and some were aware of off-payroll working (IR35), but none were aware of the Managed Service Company Legislation.

Potential tax liability on all contractor loans after 1999 was incredibly unpopular with contractors; it was described as ‘immoral’ due to the belief it is a retrospective charge.

“British law should be fair but it’s not, retrospective action is just immoral and I don’t know how there can be any legal basis for it. It’s about being fair and fair is not changing the law retrospectively.”

Contractor, IT, Open Case

Contractors suggested that HMRC should decide a law and apply the rules from when the law comes into action – as opposed to retrospectively deciding whether something is legal or not.

¹³ The charge on outstanding loans is not retrospective. A retrospective charge would change the tax position of a transaction that occurred in the past. This charge is a new charge arising at a future date and it does not change the tax position of any previous year.

“HMRC changed their rules and now applied it retrospectively. That is the problem I have. If they had changed the rules today and applied it from today that would have been fine. At least then they would have given people a choice to stop it or continue and be prepared to face the consequences.”

Contractor, Finance, Closed Case

Some contractors suggested that HMRC’s ability to take what they perceived to be retrospective action would result in fewer people staying in contracting, to the detriment of the UK economy. Feedback from others suggested this has fostered a mistrust of government in general.

“It will mean that many more people like me who are of an age will no longer work, so there is a huge loss of experience.”

Contractor, Management, Open Case

4 Conclusions

This section of the report presents some conclusions based on the key findings from this research and highlights some things to consider that could help support HMRC's strategic objective to 'maximise revenues due and bear down on avoidance and evasion'.

HMRC should continue its work to increase awareness of, and knowledge about, tax avoidance in general. Not all contractors and employment agencies who participated in this research demonstrated a clear and in-depth understanding of what constitutes tax avoidance. Providing more and clearer information about what is acceptable (and what is not) could prevent some contractors from entering avoidance schemes in the first place and negate the need for them to go through the settlement process.

A communication campaign dispelling key messages being used by those administering avoidance schemes could be a useful way to discourage some contractors from getting involved with them. This research shows that some contractors perceive use of avoidance schemes to be a 'normal' part of contracting, meaning they are more likely to get involved with the scheme. Contractors are initially attracted to schemes because they are told it will allow them to retain a higher proportion of their pay whilst reducing administrative burden. However, most contractors reported that their involvement in their scheme was ultimately not worth it given the amount of stress it ultimately caused them. HMRC could create case studies of contractors that are going through / have gone through the settlement process to show the potential risks / negative aspects of being involved with an avoidance scheme.

HMRC should consider disseminating any future messaging about tax avoidance schemes via a wider range of channels. Few contractors reported their general views on tax avoidance were primarily influenced by information made available by HMRC. Few reported using HMRC sources of information on tax; and those who did generally did so via information on the GOV.UK website which is perceived to be difficult to find and unclear. Instead, contractors' views on tax avoidance appear to be more heavily influenced by the media and by discussions with colleagues / friends / family. A key finding from this research is that promoters of tax avoidance schemes are targeting contractors through a variety of channels including personal recommendations via word of mouth, internet adverts and cold calling. The research also clearly shows that the influence of colleagues / friends / family is a key factor in encouraging contractors to enter avoidance schemes. Therefore, HMRC should consider whether it would be possible to use these existing channels of information to disseminate information about tax avoidance e.g. by putting case studies on contractor forums online.

HMRC should continue to work with representative bodies to disseminate messages about some umbrella companies' non-compliant activity among employment agencies. This research highlights that some umbrella companies could be driving non-compliant activity in the recruitment industry; it also suggests that some smaller agencies are unable to identify this due to a lack of knowledge and / or resource. Therefore, working with bodies such as the Freelancer and Contractor Services Association (FCSA) about how to help these agencies to identify red flag behaviour among umbrella companies could help to empower them to make better decisions about who they engage with.

HMRC could also work collaboratively with compliant employment agencies to identify non-compliance among some umbrella companies. This research indicates that some compliant agencies are potentially losing business to agencies that are engaged in non-

compliant activity (knowingly and unknowingly). As a result, they are keen to work with HMRC to identify and tackle non-compliant activity.

Changing the way HMRC communicates with contractors going through the settlement process may encourage more to engage with the process. A key finding from this research is that most contractors believe they were misinformed about the scheme they entered, Contractors generally considered themselves to be victims of the company administering the scheme and many were negative about the fact that they perceived HMRC to be treating them like a criminal when negotiating their settlement opportunities. These contractors suggested that they would have been more inclined to engage with HMRC if their approach was less antagonistic.

Appendix A – Detailed methodology

This section provides further detail on the methodology adopted to meet the research objectives and includes the profiles of employment agencies and contractors that participated in the research.

Employment Agencies

A total of ten face-to-face qualitative interviews, lasting approximately 60 minutes each, were conducted with employment agencies between 19th March and 18th April 2018.

The sample was sourced by IFF from the Recruitment & Employment Confederation (REC)¹⁴ online membership directory.¹⁵ Employment agencies that took part in the research were purposively sampled on the basis that they provided contractors to the key industry sectors that HMRC wanted to explore during the research.

Within this purposive approach, interviews were conducted with a mix of employment agencies in terms of size and location – to achieve a range of perspectives.

See below for the profile of employment agencies that took part in the research.

'Main' Industry Sector ¹⁶	No. of interviews
IT	5
Health and social care	5
'Other' sectors These included: Finance, Legal, Construction and Creative Industries.	4

Region	No. of interviews
London	7
South East	1
North West	2

¹⁴ The REC is the largest trade body within the UK recruitment industry representing more than 3,000 recruitment businesses and over 9,000 individual recruiters.

¹⁵ <https://www.rec.uk.com/membership/member-directory>

¹⁶ Some reported providing workers to multiple 'main' sectors

Size (no. of employees)	No. of interviews
Small (0-49)	4
Medium (50-249)	4
Large (250+)	2

Contractors

A total of 30 face-to-face qualitative interviews, lasting approximately 60 minutes each, were conducted with contractors between 12th April and 18th May 2018.¹⁷

HMRC provided IFF with contractor sample (including their contact details) after conducting an opt-out exercise. IFF then recruited participants from the remaining sample. Participants were purposively sampled according to industry sector and whether their tax avoidance case was ongoing (i.e. open) or settled (i.e. closed).

The table below shows the final profile of contractors who participated in the research by industry sector and case status.

Industry Sector	Open Case	Closed case
IT	8	2
Health and social care	6	4
'Other' sectors These included: Finance, Management, Construction, Creative Industries and Oil & Gas.	6	4

Interviews were conducted with a range of contractors in terms of: their self-declared level of knowledge with regards to tax, whether they were advised to enter a scheme or decided to join of their own accord, age, gender and location – see below. However, participants were not sampled on this basis.

¹⁷ Three interviews with contractors were conducted by telephone where requested by a participant or where the participant's location prohibited a face-to-face discussion.

Self-declared level of knowledge about tax	No. of interviews
Good	5
Neither good nor poor	11
Poor	14

Whether advised to enter scheme	No. of interviews
Advised to enter	20
Was told had to enter	2
Own idea to enter scheme	8

Gender	No. of interviews
Male	22
Female	8

Region	No. of interviews
London	22
South East	3
East Midlands	2
Yorkshire and the Humber	1
South West	1
Scotland	1

Appendix B – Research topic guides

EMPLOYMENT AGENCIES (45-60 mins)

Background for interviewer

Tax avoidance is a practice of using arrangements designed to result in paying the least amount of tax possible - working around the rules of the tax system to pay less tax than Parliament ever intended – so operating within the letter, but not the spirit of the law.

Over the past few years tax avoidance has generated a lot of attention in the media and it can cause confusion among both individuals and businesses. The term is often confused with legitimate tax planning, like putting money in an ISA. Tax avoidance often involves complicated, artificial ‘schemes’ that have no real financial purpose, other than to avoid tax. Some of these schemes are sold to potential individuals and businesses by a promoter and in such instances HMRC refers to these as ‘marketed’ avoidance schemes.

Against this backdrop HMRC faces the challenge of closing the ‘tax gap’ – the difference between the amount of tax that should, in theory, be collected by HMRC, and what is actually collected. Of the current £37bn tax gap, it has been estimated that £1.7bn is accounted for by tax avoidance. HMRC is actively seeking to reduce the stock of users involved in tax avoidance schemes.

For the purposes of this research, a contractor is defined as a freelancer, or other individual who can sell their services by way of a contract. Some contractors are professionals who operate via their own limited companies (sometimes referred to as Personalised Service Companies or PSCs) and are not employees for a larger firm or business. A limited company or PSC is a small business set up by an individual, where they provide their services on behalf of the company. As contractors work through limited companies (rather than being employed by them) they do not fall under the same tax brackets of standard employees as they are not on the payroll system. By definition, they are not technically employed, making them self-employed specialists who are engaged on relatively short contract bases.

Many contractors decide to take advantage of the tax planning opportunities available to them to save money and reduce their tax bills, there are plenty of legitimate ways to do this which can provide savings opportunities. Many of these are laid out in the guidelines provided by HMRC, and these are considered acceptable means of reducing a tax bill so long as they meet any criteria specified.

However, there are many tax avoidance schemes being marketed and promoted to contractors by tax agents/advisers and HMRC has anecdotal evidence that contractor avoidance is growing part of the tax avoidance marketplace, with contractor loans schemes the most commonly used avoidance vehicle.

Understanding more about how contractor avoidance schemes are promoted and marketed is essential to supporting HMRC’s strategic objective to ‘bear down on avoidance, evasion and error’. A key element of this is to understand the role of employment agencies who recruit contractors for specific industry sectors in the promotion and marketing of contractor tax avoidance schemes

A) Introduction (2 minutes)

<ul style="list-style-type: none">● Interviewer and IFF introduction: thank you for taking part in this research that we are conducting on behalf of HMRC.● Background to the research: HMRC has commissioned IFF Research to undertake research to explore employment agencies' awareness and understanding of contractor avoidance schemes. The interview will give you a chance to express your views on this and give feedback on how avoidance schemes and / or HMRC's response to them has impacted on your business.● The interview shouldn't take longer than 60 minutes to complete, depending on your answers.● Reassurances: IFF Research is an independent market research company, operating under the strict guidelines of the Market Research Society's Code of Conduct. We will not pass any of your details on to HMRC or any other companies. It will not be possible to identify any individual or individual company in the results that we report to HMRC and the answers you give will not be traced back to you. Participation is entirely voluntary and will not impact on any current or future dealings with HMRC in any way.● Data use: All the information we collect will be kept in the strictest confidence and used for research purposes only.● Request permission to record: We like to audio record all interviews of this nature so we don't have to take a lot of notes – the recording will be used for analysis purposes. Is this ok? <p><i>Switch digital recorder on if participant agrees to be recorded and confirm verbal consent.</i></p>	<p>PROCESS NOTES:</p> <p><i>The purpose of this section is to thank the participant for agreeing to participate in the research and introduce them to its aims and objectives.</i></p>
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B) Background (5 minutes)

<p>I'd like to start by getting some more information about you and your business...</p> <p>B1 Firstly, could you tell me a bit about your business?</p> <p><i>PROBE IN TERMS OF...</i></p> <ul style="list-style-type: none"> ● What the business does, primary purpose of the business? ● Ownership ● Size / scale ● Structure ● Geography ● Does it specialise in contractor recruitment for any particular sector? <p>B2 Could you give me a brief overview of your role and responsibilities?</p> <p><i>PROBE IN TERMS OF...</i></p> <ul style="list-style-type: none"> ● How long have you worked at the business? ● How long have you worked in the recruitment industry? ● Do you specialise in contractor recruitment for particular sectors? <ul style="list-style-type: none"> ● Which ones? ● How long have you specialised in these sectors? ● Has the number of contractors recruited for these sectors changed over the last 2 years or so? Why is this? 	<p>PROCESS NOTES: <i>The purpose of this section is to briefly gather some background information about the employer and the participant's role within it.</i></p> <p>INTERVIEWER INSTRUCTION: <i>If the respondent queries the definition of 'contractor' please explain using the following definition:</i></p> <p>For the purposes of this research we are defining a contractor as a freelancer, or other individual who can sell their services by way of a contract</p>
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<p>C5 How would you describe your organisation’s overall view on tax compliance in general?</p> <ul style="list-style-type: none">● Has this changed over time? Why is that the case? <p>C6 And how would you describe your overall views on tax avoidance as an organisation?</p> <ul style="list-style-type: none">● Has this changed over time? Why is that the case? <p>C7 To what extent do you think businesses operating in the recruitment industry are likely to be interested in tax avoidance? Why do you think that is the case?</p> <ul style="list-style-type: none">● Why do you think that some recruitment agencies could be interested in tax avoidance?● Do you think that it could be more attractive to recruitment agencies operating in certain industries? Why do you think that’s the case? <p>C8 In your view, how likely is it that those who use the services of employment agencies enter into tax avoidance arrangements? What makes you say that?</p> <p>C9 And how widespread do you think this is among other types of businesses? In which industries do you think it is more common? What makes you say that?</p>	
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D) Awareness of contractor tax avoidance schemes

(20 minutes)

<p>Thanks for that. I'd now like to move on to explore your awareness of, and potential interaction with, contractor tax avoidance schemes in a bit more detail.</p> <p>D1 Are you aware of any specific tax avoidance schemes for contractors?</p> <p>ALLOW FOR SPONTANEOUS RESPONSE AND PROBE ON THE FOLLOWING TAX AVOIDANCE SCHEMES:</p> <ul style="list-style-type: none">● Have you heard of contractor loans avoidance schemes (also known as disguised remuneration avoidance schemes)? <p><i>IF NECESSARY: Disguised remuneration tax avoidance schemes claim to avoid the need to pay Income Tax and National Insurance contributions. They normally involve a loan or other payment from a third-party which is unlikely to ever be repaid.</i></p> <ul style="list-style-type: none">● Have you heard of job board avoidance schemes? <p><i>IF NECESSARY: A tax avoidance scheme that attempts to avoid Income Tax and National Insurance contributions (NICs) by paying contractors in the form of redeemable loyalty points.</i></p> <p><i>The contractor becomes an employee of an umbrella company and is then paid in two parts. The first part is a small basic wage with little or no tax and NICs deducted. The second part of the payment is used to advertise the contractor's services on a job board.</i></p> <ul style="list-style-type: none">● Have you heard of any other avoidance schemes?	<p><i>PROCESS NOTES: The purpose of this section is to explore awareness of, and views towards, contractor tax avoidance schemes.</i></p>
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CONTRACTOR LOANS SCHEMES

IF AWARE OF CONTRACTOR LOANS SCHEMES (unprompted)

D2a Please could you talk me through your understanding of how these contractor loans schemes work?

- Do you think these schemes are / can be HMRC approved?
How would you go about checking this?

IF AWARE OF CONTRACTOR LOANS SCHEMES (prompted)

D2b I have explained how contractor loan schemes operate in theory. In your experience, how does this explanation fit with the reality of using a contractor loan scheme?

- Do you think these schemes are / can be HMRC approved?
How would you go about checking this?

D3 When did you first hear about contractor loan schemes and how did you find out about them?

D4 Why do you think that some employment agencies use or promote contractor loans schemes? What do you think makes these schemes attractive? What makes them unattractive?

D5 Can you see any reasons why they may be attractive to businesses operating in your sector in particular? And are there any reasons why they might be used in other sectors?

D6 Have you / your organisation ever been approached by an individual / company promoting contractor avoidance schemes?

IF HAVE BEEN APPROACHED ABOUT CONTRACTOR AVOIDANCE SCHEMES BY AN INDIVIDUAL / COMPANY

D7 Please could you talk me through what that entailed?

IF NOT SPONTANEOUSLY MENTIONED, PROBE ON THE FOLLOWING:

- How often does this occur? Do you get approached by multiple promoters?
- Who approached you? How did they approach you?
- What types of contractor loans schemes were they promoting?

CONTRACTOR LOANS SCHEMES:

Disguised remuneration tax avoidance schemes claim to avoid the need to pay Income Tax and National Insurance contributions. They normally involve a loan or other payment from a third-party which is unlikely to ever be repaid.

These schemes are used by employers and individuals. If they're used by contractors, they're often known as contractor loans.

Sometimes HMRC see instances where promoters claim to their clients/avoidance scheme users that a Disclosure of Tax Avoidance Schemes (DOTAS) Scheme Reference Number is a marker that HMRC has approved a scheme. This is not true, these are allocated when we have been made aware of a scheme following a declaration that a scheme meets a DOTAS hallmark.

<ul style="list-style-type: none"> ● How did they promote the contractor loans schemes? What were they “selling” to be the main benefits? Did they mention any drawbacks? ● Did they say the scheme was HMRC approved? If so, what evidence did they give? Did they explain what HMRC approval looked like? ● Where these individuals / companies promoting other products / schemes at the same time? What did these schemes entail and how did they ‘sell’ them? <p>D8 And have you ever had contractors asking you if they can be paid in this way?</p> <p>IF HAVE BEEN APPROACHED BY CONTRACTOR REQUESTING TO BE PAID THIS WAY</p> <p>D9 Please could you talk me through what that entailed?</p> <p><i>IF NOT SPONTANEOUSLY MENTIONED, PROBE ON THE FOLLOWING:</i></p> <ul style="list-style-type: none"> ● How often does this occur? ● How do contractors tend to approach you about this? ● Is this more common for contractors operating in any sectors in particular? ● How did they hear about it? Word of mouth through work colleagues? <p>JOB BOARD SCHEMES</p> <p>IF AWARE OF JOB BOARD SCHEMES (UNPROMPTED)</p> <p>D10a Please could you talk me through your understanding of job board schemes and how they work?</p> <ul style="list-style-type: none"> ● Do you think these schemes are / can be HMRC approved? How would you go about checking this? <p>IF AWARE OF JOB BOARD SCHEMES (PROMPTED)</p> <p>D10b I have explained how job board schemes operate in theory. In your experience, how does this explanation fit with the reality of using a job board scheme?</p> <ul style="list-style-type: none"> ● Do you think these schemes are / can be HMRC approved? How would you go about checking this? <p>D11 When did you first hear about job board schemes and how did you find out about them?</p>	<p>JOB BOARD SCHEMES:</p> <p><i>A tax avoidance scheme that attempts to avoid Income Tax and National Insurance contributions (NICs) by paying contractors in the form of redeemable loyalty points.</i></p> <p><i>The contractor becomes an employee of an umbrella company and is then paid in two parts. The first part is a small basic wage with little or no tax and NICs deducted. The second part of the payment is used to advertise the contractor’s services on a job board.</i></p>
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<p>D12 Why do you think that some employment agencies use job board schemes? What do you think makes these schemes attractive? And what makes them unattractive?</p> <p>D13 Can you see any reasons why they may be attractive to businesses operating in your sector in particular? And are there any reasons why they might be used in other sectors?</p> <p>D14 Have you / your organisation ever been approached by an individual / company promoting job board schemes?</p> <p>IF HAVE BEEN APPROACHED ABOUT JOB BOARD SCHEMES</p> <p>D15 Please could you talk me through what that entailed?</p> <p><i>IF NOT SPONTANEOUSLY MENTIONED, PROBE ON THE FOLLOWING:</i></p> <ul style="list-style-type: none"> ● How often does this occur? Do you get approached by multiple promoters? ● Who approached you? How did they approach you? ● What types of job board schemes were they promoting? ● How did they promote the job board schemes? What were they “selling” to be the main benefits? Did they mention any drawbacks? Did they say the scheme was HMRC approved? If so, what evidence did they give? Did they explain what HMRC approval looked like? ● Where these individuals / companies promoting other products / schemes at the same time? What did these schemes entail and how did they ‘sell’ them? <p>ASK ALL</p> <p>D16 Have you ever been targeted by an individual / an organisation promoting any other tax avoidance scheme for contractors?</p> <p>IF HAVE BEEN TARGETED:</p> <p>D17 Please could you talk me through what that entailed?</p> <p><i>IF NOT SPONTANEOUSLY MENTIONED, PROBE ON THE FOLLOWING:</i></p> <ul style="list-style-type: none"> ● How often does this occur? Do you get approached by multiple promoters? ● Who approached you? How did they approach you? ● What types of avoidance schemes were they promoting? 	<p><i>They immediately receive loyalty points in return for keeping their details on the job board. The loyalty points can be cashed in by the employees shortly after, with no deductions made for tax or NICs. The contractor usually has to pay a large fee to the third party running the job board.</i></p>
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- How did they promote the avoidance schemes? What were they “selling” to be the main benefits? Did they mention any drawbacks? Did they say that the scheme was HMRC approved?
- How did you respond to being targeted?

OTHER AVOIDANCE SCHEMES

IF AWARE OTHER AVOIDANCE SCHEMES

D18 What other avoidance schemes are you aware of?

D19 Please could you talk me through your understanding of how these other contractor avoidance schemes work?

- Do you think these schemes are / can be HMRC approved? How would you go about checking this?

D20 When did you first hear about contractor avoidance schemes and how did you find out about them?

D21 Why do you think that some employment agencies use or promote contractor schemes? What do you think makes these schemes attractive? What makes them unattractive?

D22 Can you see any reasons why they may be attractive to businesses operating in your sector in particular? And are there any reasons why they might be used in other sectors?

D23 Have you / your organisation ever been approached by an individual / company promoting contractor avoidance schemes?

ASK ALL

D24 How would you describe HMRC’s attitude towards contractor tax avoidance schemes?

E) Awareness and use of “Umbrella Companies” (10 minutes)

<p>I'd now like to move on to explore your views on “umbrella companies”.</p> <p>E1 Have you heard of umbrella companies?</p> <p>IF <u>NOT</u> HEARD OF UMBRELLA COMPANIES</p> <p>E2a An umbrella company is a company that acts as an employer to agency contractors who work under a fixed term contract assignment, usually through a recruitment employment agency in the United Kingdom.</p> <p>Have you heard of this type of company? If so, what do you tend to refer to these arrangements as? How does the description of umbrella companies I gave fit with your experience in dealing with these companies in reality?</p> <p>IF HAVE HEARD OF UMBRELLA COMPANIES</p> <p>E2b Please can you talk me through your understanding of umbrella companies and how they work?</p> <p>E3 Does your company use umbrella companies to supply contractors to end clients?</p> <p>IF YES</p> <ul style="list-style-type: none"> ● When did your company first start using umbrella companies? ● How many umbrella companies do you use currently? ● For what industry sectors are they used? ● Are there any industries in which umbrella companies are not used? Why is that the case? ● Were you aware if the umbrella company was based offshore? <p>E4 What are the advantages of using an umbrella company?</p> <ul style="list-style-type: none"> ● For your business? ● For the contractors you supply to end clients? ● To the end clients? <p>E5 To what extent are you aware if / how tax liabilities change when using umbrella companies?</p> <ul style="list-style-type: none"> ● Do they present more / different opportunities for tax avoidance? How? 	<p><i>PROCESS NOTES:</i> <i>The purpose of this section is to explore awareness and usage of umbrella companies</i></p> <p><i>An umbrella company is a company that acts as an employer to agency contractors who work under a fixed term contract assignment, usually through a recruitment employment agency in the United Kingdom</i></p>
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<ul style="list-style-type: none">● How do umbrella companies interact with the avoidance schemes we've already discussed? <p>E6 Do you expect the use of umbrella companies to increase or decrease over the next 2 years?</p> <ul style="list-style-type: none">● By your business● By the recruitment industry in general	
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F) Awareness of legislative changes (5 minutes)

<p>Finally, I'd like to talk to you about some forthcoming legislative changes.</p> <p>F1 How closely do you follow legislative changes to the tax system that could impact your business?</p> <ul style="list-style-type: none"> ● What sources of information do you use? <p>F2 Are you aware of any recent or forthcoming legislation regarding disguised remuneration schemes?</p> <p>IF AWARE OF FORTHCOMING LEGISLATION</p> <p>F3 Please could you talk me through your understanding of the new legislation?</p> <p><i>IF NOT SPONTANEOUSLY MENTIONED, PROBE ON THE FOLLOWING:</i></p> <ul style="list-style-type: none"> ● New loan charge introduced from April 2019 ● Potential tax liability on all contractor loans after 1999 ● Settlement opportunities ● IR35 / Employment status: Employment Intermediaries ● Managed Service Company legislation <p>F4 What are the potential impacts of this new legislation?</p> <ul style="list-style-type: none"> ● To your business? ● To the contractors you supply to end clients? ● To your end clients? ● What are the positives and negatives of this new legislation? ● Do you think they will be effective or not? Why is that the case? 	<p>PROCESS NOTES:</p> <p><i>The purpose of this section is to assess the awareness and knowledge of the forthcoming legislative changes regarding disguised remuneration avoidance schemes</i></p> <p><i>Disguised remuneration avoidance schemes are used by employers and individuals to avoid Income Tax and National Insurance contributions. Although there are various types, they normally result in a loan from a third party on such terms that mean it's unlikely to ever be repaid.</i></p> <p><i>At Budget 2016 the government announced a number of changes to tackle existing avoidance schemes and prevent their future use.</i></p> <p><i>The changes will include a new 'loan charge' on disguised remuneration loans which are outstanding on 5 April 2019. To prevent attempts to exploit the new loan charge, a targeted anti-avoidance rule will ensure further avoidance schemes don't work.</i></p>
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H) Final wrap up (5 minutes)

<p>H1 Is there anything else you would like to add that hasn't been discussed about tax avoidance arrangements used by contractors?</p> <p>H2 And would you be happy for us to pass a transcript of this interview to HMRC, on an anonymised basis, so with any identifiers removed?</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="width: 50%; text-align: center;">Yes</td> <td style="width: 50%;"></td> </tr> <tr> <td style="text-align: center;">No</td> <td></td> </tr> </table>	Yes		No		<p><i>PROCESS NOTES:</i> The purpose of this section is to sum up the interview and</p>
Yes					
No					

THANK PARTICIPANT AND CLOSE INTERVIEW

I declare that this interview has been carried out under IFF instructions and within the rules of the MRS Code of Conduct.		
Interviewer signature:	Date:	
Finish time:	Interview Length	Mins

Understanding tax avoidance arrangements used by contractors

INDIVIDUALS (60 mins)

Background for interviewer

Tax avoidance is a practice of using arrangements designed to result in paying the least amount of tax possible - working around the rules of the tax system to pay less tax than Parliament ever intended – so operating within the letter, but not the spirit of the law.

Over the past few years tax avoidance has generated a lot of attention in the media and it can cause confusion among both individuals and businesses. The term is often confused with legitimate tax planning, like putting money in an ISA. Tax avoidance often involves complicated, artificial ‘schemes’ that have no real financial purpose, other than to avoid tax. Some of these schemes are sold to potential individuals and businesses by a promoter and in such instances HMRC refers to these as ‘marketed’ avoidance schemes.

Against this backdrop HMRC faces the challenge of closing the ‘tax gap’ – the difference between the amount of tax that should, in theory, be collected by HMRC, and what is actually collected. Of the current £37bn tax gap, it has been estimated that £1.7bn is accounted for by tax avoidance. HMRC is actively seeking to reduce the stock of users involved in tax avoidance schemes.

For the purposes of this research, a contractor is defined as a freelancer, or other individual who can sell their services by way of a contract. Some contractors are professionals who operate via their own limited companies (sometimes referred to as Personalised Service Companies or PSCs) and are not employees for a larger firm or business. A limited company or PSC is a small business set up by an individual, where they provide their services on behalf of the company. As contractors work through limited companies (rather than being employed by them) they do not fall under the same tax brackets of standard employees as they are not on the payroll system. By definition, they are not technically employed, making them self-employed specialists who are engaged on relatively short contract bases.

Many contractors decide to take advantage of the tax planning opportunities available to them to save money and reduce their tax bills, there are plenty of legitimate ways to do this which can provide savings opportunities. Many of these are laid out in the guidelines provided by HMRC, and these are considered acceptable means of reducing a tax bill so long as they meet any criteria specified.

However, there are many tax avoidance schemes being marketed and promoted to contractors by tax agents/advisers and HMRC has anecdotal evidence that contractor avoidance is growing part of the tax avoidance marketplace, with contractor loans schemes the most commonly used avoidance vehicle.

Understanding more about how contractor avoidance schemes are promoted and marketed is essential to supporting HMRC’s strategic objective to ‘bear down on avoidance, evasion and error’.

A) Introduction (2 minutes)

<ul style="list-style-type: none">● Interviewer and IFF introduction: thank you for taking part in this research that we are conducting on behalf of HMRC.● The interview shouldn't take longer than 60 minutes to complete, depending on your answers.● Reassurances: IFF Research is an independent market research company, operating under the strict guidelines of the Market Research Society's Code of Conduct. We will not pass any of your details on to HMRC or any other companies. It will not be possible to identify any individual or individual company in the results that we report to HMRC and the answers you give will not be traced back to you. Participation is entirely voluntary and will not impact on any current or future dealings with HMRC in any way.● Data use: All the information we collect will be kept in the strictest confidence and used for research purposes only.● Request permission to record: We like to audio record all interviews of this nature so we don't have to take a lot of notes – the recording will be used for analysis purposes. Is this ok? <p><i>Switch digital recorder on if participant agrees to be recorded and confirm verbal consent.</i></p>	<p>PROCESS NOTES:</p> <p><i>The purpose of this section is to thank the participant for agreeing to participate in the research and introduce them to its aims and objectives.</i></p>
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B) Background (5 minutes)

<p>I'd like to start by getting some more information about you.</p> <p>B1 Firstly, could you tell me a bit about your working life.</p> <p><i>PROBE IN TERMS OF...</i></p> <ul style="list-style-type: none">● Employment status● Work experience● How long a contractor● Educational background● If no longer a contractor when did they change roles? <p>B2 When you were recruited to take part in this research you mentioned that you had a [X] knowledge of finance / tax. Please could you give a bit more detail on that?</p> <p><i>PROBE IN TERMS OF...</i></p> <ul style="list-style-type: none">● Level of interest● Use of advisers● Sources of information	<p>PROCESS NOTES: <i>The purpose of this section is to briefly gather some background information about the individual and their case.</i></p>
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C) General views on tax avoidance and compliance

(15 minutes)

<p>As part of this research we are interested in understanding general awareness of, and views about, tax avoidance. I'd like to explore that in a bit more detail with you now.</p> <p>C1 To start off with, please could you tell me what you understand 'tax avoidance' to mean?</p> <ul style="list-style-type: none"> ● Is there a difference between tax avoidance and tax planning? If so, how do they differ? At what point does tax planning become tax avoidance? How easy is it to draw a line between planning and avoidance? ● Can you engage in tax avoidance but still be tax compliant? Why do you say that? ● How does tax avoidance differ to tax evasion? Is there a difference? At what point does tax avoidance become tax evasion? How easy is it to draw a line between avoidance and evasion? ● What factors influence your opinions on tax avoidance? (E.g. media, government, living standards, cost of living, friends, family, work colleagues). <p>C2 Where do you tend to hear about tax avoidance and compliance from?</p> <ul style="list-style-type: none"> ● Have you ever sought additional information on tax avoidance and compliance? If so, from whom and how useful was this information? ● Would you know where to look for additional information? ● IF NOT MENTIONED: Have you ever sought any information on tax avoidance from HMRC? If so, which sources of information have you used? Have you ever consulted information on the gov.uk website? If so, what information have you consulted? <p>C3 Do you tend to discuss tax avoidance with friends / family / colleagues?</p> <ul style="list-style-type: none"> ● If so, who do you tend to discuss tax avoidance with? ● If so, what do you tend to discuss? How do they generally talk about it? What are their overall views on tax avoidance? ● How frequently does it get discussed? ● What gets discussed? ● Why does it tend to be discussed? Or not discussed? 	<p>PROCESS NOTES: <i>The purpose of this section is to explore how taxpayers view tax avoidance and tax compliance in general.</i></p>
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<ul style="list-style-type: none">● Do you feel there is a social / moral obligation to pay taxes? What are the implications of not doing so? <p>C4 In your opinion, how widespread is tax avoidance in the UK? Why do you say that?</p> <ul style="list-style-type: none">● What types of people are more likely to be involved in tax avoidance schemes?● Do you think that it is more common in certain types of industries? If so which? Why do you think that? <p>C5 Why do you think that people tend to get involved in tax avoidance schemes?</p> <ul style="list-style-type: none">● What makes tax avoidance schemes attractive to some people? And what makes tax avoidance schemes unattractive?● Do you think that most people who get involved with tax avoidance schemes make a conscious decision to enter an avoidance scheme or that they end up involved unwittingly? Why do you think that?	
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D) Entering a tax avoidance scheme (20 minutes)

<p>Thanks for that. I'd now like to move on to discuss the specifics of your case in a bit more detail.</p> <p>D1 First of all, was it the case that you were approached by someone about the scheme you entered? Or did you enter the scheme after seeking it out?</p> <p>D1a And please could you tell me about how you initially became aware of the scheme that you entered?</p> <ul style="list-style-type: none"> ● When did you first hear about the scheme? ● Who initially approached you? How did they approach you? ● Who introduced the scheme to you? How did they initially introduce the scheme? Was the scheme presented to you as the only way of getting paid? ● Were those who were promoting the scheme that you got involved with promoting other schemes / products at the same time? What were the other schemes that were they selling? What did they entail? ● How did they promote the scheme? What did they "sell" as the main benefits of the scheme? Did they mention any potential drawbacks? ● Did they say that the scheme was approved by HMRC? If so, what evidence did they give? Did they explain how HMRC approval worked and what it looked like? <p>D2 Now I'd like to explore your decision to get involved with the scheme in a bit more detail. Please could you talk me through your decision to get involved with the scheme?</p> <ul style="list-style-type: none"> ● To what extent do you think that you made a conscious decision to get involved with the scheme? Did you feel that you had a good understanding of what you were getting involved with? Why do you say that? ● What sort of appetite for risk would you say you have in terms of investments? How "big" of a decision was it to enter the scheme? How much "effort" was required to decide to enter the scheme? ● Is it something that you were initially unsure of or was it an easy decision to make? Why do you say that? ● Did you have any concerns about entering the scheme at the time? If so, what were you concerned about? 	<p><i>PROCESS NOTES: The purpose of this section is to explore the "journey" that taxpayers made in terms of entering a contractor avoidance scheme. It focuses on getting the taxpayer to describe that journey in detail.</i></p>
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- Why did you decide to enter the scheme? Was the decision influenced by timing? Was it influenced by any other factors?
- What was the key factor that persuaded you to enter the scheme?
- And how did you feel after you had entered the scheme?

D3 At that point, did you think that the scheme that you entered would be of interest to HMRC? Why did you think that?

ASK IF FELT IT COULD BE OF INTEREST TO HMRC:

- At the time, what did you think would happen if HMRC became interested in the scheme?

E) Settling with HMRC (20 minutes)

<p>ASK THOSE WHOSE CASE IS CLOSED (HAVE SETTLED WITH HMRC)</p> <p>Thanks for that. I'd now like to move on to discuss the outcome of your case in more detail.</p> <p>E1 First, please could you tell me about how you initially became aware of the chance to settle your case? Who initiated the process? Who told you about the opportunity to settle?</p> <ul style="list-style-type: none"> ● How did they let you know about this opportunity? ● What did they say the benefits of settling would be? <p>ASK IF HMRC INITIATED THE PROCESS:</p> <p>E2 When HMRC got in touch with you regarding the scheme how did you feel about this?</p> <ul style="list-style-type: none"> ● To what extent was this something that you expected or not? Why is that the case? <p>ASK ALL</p> <p>E3 And could you tell me a bit more about your decision to settle your case when you did?</p> <ul style="list-style-type: none"> ● At the time, what did you consider the advantages of settling your case to be? Did you perceive there to be any disadvantages? Why do you say that? ● What was the key factor that meant that you decided to settle your case when you did? What other factors did you consider at the time? ● How “big” of a decision was it to settle? How much “effort” was required to make that decision? ● Is it something that you were initially unsure of or was it an easy decision to make? Why do you say that? ● To what extent was the decision to settle your case influenced by timings? ● What other factors influenced your decision? <p>E4 How did you feel after you settled your case?</p> <ul style="list-style-type: none"> ● About HMRC? ● About those who may have advised you to enter the scheme? 	<p><i>PROCESS NOTES: The purpose of this section is to...</i></p>
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<ul style="list-style-type: none">● Did you feel better after your case was settled? How and why? <p>E5 How would you summarise your feelings about your experience of the whole process? Has the way you feel changed over time? Why do you think that's the case?</p> <p>E6 And how would you summarise your feelings about your experience of dealing with HMRC about your case to date? Has the way you feel changed over time? Why do you think that's the case?</p> <p>E7 Do you feel differently now than you did before entering the scheme</p> <ul style="list-style-type: none">● About taxation?● About HMRC? <p>E8 How could HMRC support taxpayers who have gone through / are going through the process of settling?</p> <p>ASK THOSE WHOSE CASE IS STILL OPEN</p> <p>Thanks for that. I'd now like to move on to discuss where things are currently at regarding your case.</p> <p>E8 How would you describe the current status of your case? Why?</p> <p>E9 How, if at all, has the opportunity to settle your case been communicated to you?</p> <ul style="list-style-type: none">● How did you initially become aware of the chance to settle your case?● Who told you about the opportunity to settle?● How did they let you know about this opportunity?● What did they say the benefits of settling would be? <p>E10 When HMRC got in touch with you regarding the scheme how did you feel about this?</p> <ul style="list-style-type: none">● To what extent was this something that you expected or not? Why is that the case? <p>E11 How do you feel about the prospect of settling your case?</p> <ul style="list-style-type: none">● What would be the benefits of settling your case now? Do you think there would be any drawbacks?	
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<ul style="list-style-type: none">● What is the key factor that has prevented you from deciding to settle so far? What other factors are you considering as part of this decision? <p>E11 How would you summarise your feelings about your experience of using a tax avoidance scheme to date? Has the way you feel changed over time? Why do you think that's the case?</p> <p>E12 And how would you summarise your feelings about your experience of dealing with HMRC about your case to date? Has the way you feel changed over time? Why do you think that's the case?</p> <p>E13 How could HMRC support taxpayers who have gone through / are going through similar circumstances?</p>	
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F) Awareness of legislative changes (5 minutes)

<p>Finally, I'd like to talk to you about some recent or forthcoming legislative changes.</p> <p>F1 How closely do you follow legislative changes to the tax system that could impact your business?</p> <ul style="list-style-type: none"> • What sources of information do you use? <p>F3 Are you aware of any existing or forthcoming legislation and policy initiatives regarding contractor avoidance schemes?</p> <p>IF AWARE</p> <p>F4 Please could you talk me through your understanding of these?</p> <p><i>IF NOT SPONTANEOUSLY MENTIONED, PROBE ON THE FOLLOWING:</i></p> <ul style="list-style-type: none"> • New loan charge introduced from April 2019 • Potential tax liability on all contractor loans after 1999 • Settlement opportunities • IR35 / Employment status: Employment Intermediaries • Managed Service Company legislation <p>F5 What are the potential impacts of these?</p> <ul style="list-style-type: none"> • What are the positives and negatives of this new legislation? • Do you think they will be effective or not? Why is that the case? 	<p><i>PROCESS NOTES: The purpose of this section is to gauge taxpayers' awareness of some recent or forthcoming legislative changes.</i></p> <p><i>Details on those asked about are as follows...</i></p> <p>New loan charge introduced from April 2019: A loan charge will apply to disguised remuneration tax avoidance schemes if any part of a loan made under the arrangements is still outstanding on 5 April 2019.</p> <p>Potential tax liability on all contractor loans after 1999: Under measures proposed in the Finance Bill 2017, HMRC will be able to tax any outstanding Employee Benefit Trust (EBT) loans made since 6 April 1999 on the basis that a non-repayable loan is not a loan, but is disguised pay.</p> <p>Settlement opportunities: HM Revenue and Customs (HMRC) may invite users of certain avoidance schemes to settle their tax liabilities by agreement, without the need for legal action.</p> <p>IR35 - Employment Status: Employment Intermediaries: IR35 is tax legislation that is designed to combat tax avoidance by workers supplying their services to clients via an intermediary, such as a limited company, but who would be an employee if the intermediary was not used.</p> <p>Managed Service Company Legislation defines a MSC provider as 'a person who carries on a business of promoting or facilitating the use of companies to provide the services of individuals'. This decision confirms HMRC's view that if the answer to both of the following questions is yes, a person is a MSC provider:</p> <ul style="list-style-type: none"> • does the person promote or facilitate the use of a company? • does that company provide the services of individual?
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H) Final wrap up (3 minutes)

<p>H1 Is there anything else you would like to add that hasn't been discussed?</p> <p>H2 And would you be happy for us to pass a transcript of this interview to HMRC, on an anonymised basis, so with any identifiers removed?</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="width: 50%; text-align: center;">Yes</td> <td style="width: 50%;"></td> </tr> <tr> <td style="text-align: center;">No</td> <td></td> </tr> </table>	Yes		No		<p><i>PROCESS NOTES:</i> The purpose of this section is to sum up the interview and</p>
Yes					
No					

THANK PARTICIPANT AND CLOSE INTERVIEW

I declare that this interview has been carried out under IFF instructions and within the rules of the MRS Code of Conduct.		
Interviewer signature:	Date:	
Finish time:	Interview Length	Mins

“

IFF Research illuminates the world for organisations businesses and individuals helping them to make better-informed decisions.”

Our Values:

1. Being human first:

Whether employer or employee, client or collaborator, we are all humans first and foremost. Recognising this essential humanity is central to how we conduct our business, and how we lead our lives. We respect and accommodate each individual's way of thinking, working and communicating, mindful of the fact that each has their own story and means of telling it.

2. Impartiality and independence:

IFF is a research-led organisation which believes in letting the evidence do the talking. We don't undertake projects with a preconception of what "the answer" is, and we don't hide from the truths that research reveals. We are independent, in the research we conduct, of political flavour or dogma. We are open-minded, imaginative and intellectually rigorous.

3. Making a difference:

At IFF, we want to make a difference to the clients we work with, and we work with clients who share our ambition for positive change. We expect all IFF staff to take personal responsibility for everything they do at work, which should always be the best they can deliver.



IFF Research

5th Floor
St. Magnus House
3 Lower Thames Street
London
EC3R 6HD
Tel: +44(0)20 7250 3035
Website: iffresearch.com

Contact details: Rob Warren and marc Cranney
Rob.Warren@iffresearch.com
Marc.Cranney@iffresearch.com