

Time to stop tax abuse through limited companies if we'...

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I have a version of the following on the [Guardian's Comment is Free site tonight](#): and I share it here in haste:

The news

<http://www.guardian.co.uk/politics/2012/feb/16/civil-servants-union-tax-schemes> that making payment to people who are, in effect, senior civil servants through their personal service companies is widespread across Whitehall is shocking at a number of levels.

It is shocking because, as H M Revenue & Customs say on their website, it is the duty of an employer to determine the proper status of their employee and in particular whether they are self employed (which term, they make clear, also covers those working through a limited company) or not. As HMRC put it, if this is not done <http://www.hmrc.gov.uk/employment-status/index.htm#5> :

it creates unfair competition between those businesses that meet their responsibilities and those that do not. It also creates unfairness where, for instance, two workers engaged on the same project and performing the same tasks for separate businesses are not paying the same tax and NICs due to the incorrect classification of one of them.

No one could have put it better: As HMRC say, there is unfairness at the core of what is now known to be happening in Whitehall.

It's also shocking that this is being done to curry favour with those on the highest levels of pay: this is shocking government encouragement of inequality.

There is much more to it than that though. This is not just unfair; it's illegal and an employee can be penalised for getting it wrong. As a result HMRC publish clear guidelines to make sure no one can make a mistake about who is and is not self employed in situations like this. <http://www.hmrc.gov.uk/calcs/esi.htm>. There is, therefore, no excuse for any government department getting the employment status of any person wrong. And, try as you might, someone working as what is, in effect, a senior civil servant will always come out as an employee using this test.

That can only mean that these payments made to people through their own so-called consultancy companies mean that at the core of Whitehall there are senior civil servants willfully ignoring the requirements of tax law. And that will be true even if the people receiving these payments work for more someone else in addition to their civil service work: as the rules and case law make clear, two part time jobs never make a full time self employment. As the PAYE regulations make clear, each separate engagement has to be decided on its own merits and the right rules must be applied. But as the level of pay in the cases now highlighted indicates, the chance of any recipient undertaking much other work is, in any event, really quite low.

In that case it is this willingness to ignore the law that is really shocking in this case. Tax and government go together like, as Frank Sinatra would have put it, a horse and carriage: you can't have one without the other. And yet these payments make clear that the tax abuse that has over the last thirty years come to undermine the credibility of the accounting and legal professions and the corporate world has now so thoroughly permeated Whitehall that no one has even seen how corrosive these payments are.

*That means that at the very heart of government the operation of tax law that is central to the credibility of government revenues is now being ignored by the people who are charged with maintaining our state, and all because they so lack conviction in what they do that they have over time outsourced so much of their decision making to consultants that those same consultants (mainly in the accounting and legal professions) can now price anyone working on public sector policy out of the price-reach of government employment, so forcing this corruption on the civil service. This is the inevitable consequence of our having had what I describe in my book *The Courageous State**

<http://www.searchingfinance.com/products/soon-to-be-published/the-courageous-state-rethinking-economics-society-and-the-role-of-government.html> as cowardly politicians who have sought to undermine the state in the name of neoliberalism for the last thirty years.

*In that case this is not just a technical issue requiring the technical fix of putting these people on the payroll. What it really says is that we need a new breed of courageous politicians who will stand up for the state and all it can do for itself and who will at the same time uphold tax law, the obligation that all employees be treated equally whether in state or private sectors, and who will also rightfully demand a civil service able to make up its own mind in the public interest without outsourcing all key decisions to consultants. Right now we don't have those politicians and yet without them what is clear is that our whole system of government is at threat, and with it our society as well. That's why I argue we need the *Courageous State* we have not got.*