



HM Revenue  
& Customs

# Improving the operation of the Construction Industry Scheme (CIS)

## **Consultation document**

Publication date: 27 June 2014

Closing date for comments: 22 September 2014

**Subject of this consultation:**

The Chancellor announced at Budget 2014, that the Government will consult on options to improve the operation of the Construction Industry Scheme (CIS) and on the introduction of mandatory on-line CIS filing for contractors.

**Scope of this consultation:**

The Government has formulated proposals for improving the current scheme with the objective of relieving the regulatory burden of operating the scheme and reducing HMRC's administrative costs.

**Who should read this:**

We would like to hear from subcontractors and contractors, and their agents; software developers and payroll bureaux, and anyone else involved with operating CIS.

**Duration:**

The consultation will run for 12 weeks starting from 27 June and closing 22 September 14.

**Lead official:**

Julie Campbell , HMRC

**How to respond or enquire about this consultation:**

Responses should be submitted in writing by email where possible to Julie Campbell at [review.cis@hmrc.gsi.gov.uk](mailto:review.cis@hmrc.gsi.gov.uk) or by post at 100 Parliament Street London SW1A 2BQ

**Additional ways to be involved:**

We will be holding roundtable stakeholder events in July and August. If you would like to be involved with these please contact Julie Campbell by email at [review.cis@hmrc.gsi.gov.uk](mailto:review.cis@hmrc.gsi.gov.uk) or by telephone on 03000 586670

This document is available in other formats on request. Please contact Julie Campbell at the above address.

**Previous engagement:**

Interested stakeholders have outlined their concerns about to the operation of the CIS in informal discussions leading up to the Budget . HMRC also undertook a limited amount of market research to inform CIS policy development. This has now been published and can be viewed at <http://www.hmrc.gov.uk/research/report309.pdf>

**After the consultation:**

A summary of responses will be published after the consultation closes. The timetable and process for delivery of tax legislation will also be set out in the summary of responses document.

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**On request this document can be produced in Welsh and alternate formats including large print, audio and Braille formats**

# Foreword

This government is committed to making the tax system easier, quicker and simpler for businesses by reducing administrative burdens and making it easier for them to comply with their tax obligations.

The construction sector contributes nearly £90bn or 6.7% of the UK's Gross Domestic Product, and employs 1.3 million people. Around one million businesses are registered with the Construction Industry Scheme (CIS), a tax scheme that provides valuable revenue protection for the Exchequer across the construction sector. Construction Industry businesses asked the Government for a simpler regulatory tax environment. We are listening and would like to invest in improvements to save businesses time and money.

This consultation sets out proposals for improvements to CIS online services for contractors as well as a proposal to make it easier for subcontractors to obtain gross payment status. These proposals could substantially reduce CIS businesses' administrative costs while still meeting the primary objective of the scheme to protect the Exchequer. They will also give more CIS businesses better control over their cash flow and create a more efficient regulatory environment. Many of these improvements will create efficiencies for both CIS contractors and HMRC, but to fully realise these benefits we are consulting on requiring all businesses to file all information online.

At Budget 2014, the government said it would consult over summer 2014 to improve the operation of the CIS. I believe HMRC are able to consider such improvements because HMRC is investing extensively in digital services to save businesses time and money, make transactions faster, and to simplify end-to-end processes.

I strongly encourage CIS contractors and sub-contractors to engage with this opportunity for reform.

**David Gauke**

# 1. Introduction

## About this consultation

- 1.1** A specialist tax deduction scheme for the construction industry has existed since 1972. It was introduced to encourage tax compliance by a mobile workforce, often paid in cash. The scheme continues to enable this workforce to fulfil their obligations and ensures the correct amount of tax is paid.
- 1.2** In the March 2014 Budget the Government announced that it would consult in summer 2014 on options to improve the operation of the scheme for smaller businesses and to introduce mandatory on-line CIS filing for contractors.
- 1.3** This consultation looks at ways of administering the scheme more efficiently whilst maintaining its integrity and the revenue protection it provides the Exchequer.<sup>1</sup>
- 1.4** In considering these reforms, the Government's objectives are to continue to protect tax revenue and to reduce costs for both HMRC and contractors by making the scheme simpler to administer. The Government will also consider how these reforms fit within its wider digital programme.

## The Issues

- 1.5 There is evidence to suggest that achieving and retaining gross payment status can be too difficult.** Businesses told us that the current tests are complicated and can be difficult to comply with and that losing gross payment status for a minor failing can have a major impact on their business. Small partnerships and companies can also be dissuaded from seeking gross payment status because of the level of turnover needed to obtain it. Chapter 2 sets out proposals for simplifying and improving the compliance and turnover tests which will enable more subcontractors to access gross payment status.
- 1.6 Contractors/subcontractors would benefit from having digital access to their records.** Data error, which can delay repayments at the year-end, is a major frustration for subcontractors. An online account could give instant visibility of payments, creating a permanent digital record of all their transactions within CIS. This is explored in Chapter 3.
- 1.7 Contractors' and HMRC's operating costs could be reduced** further through a package of improvements to the CIS online system. HMRC believe these improvements would make it viable to introduce mandatory online filing and verification for contractors. These ideas are discussed in more detail in Chapter 3.
- 1.8 The verification process is cumbersome.** Feedback suggests users often find the online verification process too slow and name matching can be unreliable. Many contractors do not try to use the online system but prefer to use the CIS

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<sup>1</sup> Detailed information about the operation of the current scheme and its history can be found in the Annex on page 22.

helpline. Such calls are costly for businesses and for HMRC. Chapter 4 sets out proposals to introduce a mandatory electronic verification process and seeks views on how HMRC could improve the verification process.

## 2. Simpler gross payment status

### Introduction:

- 2.1** The Government is seeking information about the barriers to take up of gross payment status and views on how it could be simplified.
- 2.2** Currently, subcontractors who meet certain qualifying conditions can apply to be paid gross, with no deductions taken from their payments. There are two main tests: a turnover test and a compliance test and we would like to understand if either is a barrier for the sort of businesses that should have gross payment status.
- 2.3** Small limited companies told us they have problems with cash flow because they have to wait for end of year PAYE reconciliation before they can reclaim any CIS overpayments. These businesses in particular could benefit from gross payment status to avoid waiting for HMRC to process tax repayments due.
- 2.4** There is a strong case to make it easier for subcontracting businesses to achieve and maintain gross payment status. This helps them grow by improving their cash flow and also reduces administrative costs for both businesses and HMRC.

### Current CIS turnover test:

- 2.5** The turnover test requires businesses to have a construction turnover, excluding VAT and the cost of materials, of at least £30,000 each year for a sole trader, or £30,000 for each partner or director, with minimum turnover capped at a ceiling of £200,000 for a whole partnership or company.
- 2.6** The level has been set at £30,000 without review since 1999. We estimate that approximately 90% of net paid sole trader subcontractors have a turnover below this level.
- 2.7** The turnover test has an upper limit to allow established businesses with multiple partners or directors to qualify for gross payment status. The current upper threshold is £200,000 (excluding materials costs).

### Proposal to amend the requirements for the turnover test

- 2.8** The Government is committed to encouraging small businesses to grow. Feedback and evidence indicates that well established tax compliant companies, partnerships, or family businesses are deterred from applying for gross payment status because the £200,000 capped threshold for multiple partner businesses and multi-director companies is too high.
- 2.9** The Government proposes lowering the threshold for the upper limit of the turnover test to help more established businesses with multiple partners or directors qualify for gross payment status. The proposed new upper threshold could fall from £200,000 to £ 150,000, £120,000, or £100,000. The new threshold would also apply to closely held companies.

**2.10** HMRC believes that, for sole traders and the smallest partnerships and multi-director companies the minimum turnover threshold of £30,000 paid for construction activities per partner or director (excluding materials) remains appropriate to maintain the integrity of the scheme and ensure compliance with tax obligations.

**Question 1: Will decreasing the upper limit of the turnover test enable your business to apply for gross payment status. Do you have any other comments on the turnover test.**

### **Current CIS compliance tests:**

**2.11** The CIS compliance tests are first administered when a subcontractor applies for gross payment status and then annually. Extensive and comprehensive checks take place on customers' levels of compliance.<sup>2</sup>

**2.12** Larger businesses tend to have well established gross payment status. These businesses find it important to retain control over all of their cash flow and can afford to employ dedicated administrators to manage the CIS process. However, smaller businesses with site-based managers who fit CIS duties around their main role are more likely to miss compliance obligations, and therefore less likely to achieve or keep gross status.

**2.13** Customers have told HMRC that gross payment status is often withdrawn because of minor failings for complying with tax obligations.

**2.14** Many smaller contractors also report that gross payment status is confusing. They tell HMRC that it can be difficult to meet every tax deadline and they are more likely to make occasional mistakes that could result in the loss of that status.

**2.15** HMRC understands that losing gross payment status can seriously affect a business and has robust internal systems to ensure that gross payment status is not lost for trivial oversights. Businesses that lose gross payment status can appeal the decision. Nevertheless smaller businesses are more at risk of losing gross payment status or failing the test due to the number of obligations currently included in the test.

### **Proposal to amend the requirements for the compliance test**

**2.16** HMRC understands that losing gross payment status can have a serious impact on a subcontractor's business and appeals to reinstate it create an administrative burden and business uncertainty.

**2.17** To ensure that smaller businesses are not disadvantaged compared to larger ones HMRC proposes using fewer tests in the initial and annual review.

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<sup>2</sup> You can find more detail on the current test and the obligations included in Annex A on page 22.



- We will restrict initial and annual tests for subcontractors who are also contractors to a requirement to make monthly contractor returns, make timely payments of CIS deductions and an annual Income Tax Self Assessment (ITSA) /Corporation Tax Self Assessment (CTSA) return on time.
- Subcontractors will only have a requirement to make ITSA/CTSA returns on time as these are the principal objectives of the scheme.

- 2.18** This would remove the following requirements from the current test;
- Obligation to file PAYE returns (P11Ds) on time
  - Obligation to remit payments of PAYE on time
  - Obligation to remit payments of either income tax or corporation tax on time

We believe it is essential to retain the following requirements to preserve the integrity of the scheme

- Submit monthly CIS returns on time
- Submit either an ITSA or CTSA return on time
- Obligation to remit payments of CIS deductions on time
- For corporate applications – individual director’s ITSA filing obligations

The current parameters for tolerances in the regulations will still apply.

**Question 2: Will simpler annual compliance tests encourage you to apply for gross payment status if you haven’t already or have been refused in the past.**

### **Other Matters**

- 2.19** Some businesses appear to have eligible turnover to qualify for CIS gross payment status, but do not choose to do so. In 2012-13 we estimate that there were over 50,000 sole traders with turnover in excess of £30,000 who (subject to compliance records) could have applied for gross payment status. HMRC would like to have a greater understanding of why this is and would like to engage with contractors and subcontractors to discuss other barriers to obtaining and maintaining gross status, or the benefits of maintaining net status.

**Question 3: What are some of the other barriers to the take up of gross payment status. Is there an advantage to net status in some situations. Why do some contractors never apply for gross payment status.**

## 3. CIS online

### Introduction

**3.1** The Government is seeking views on proposed changes to:

- Upgrade CIS online processes
- Mandate online monthly filing of CIS returns
- Introduce an online appeals service for CIS penalties
- Introduce an online digital account for all subcontractors

### Background

**3.2** Reforms in 2007 introduced electronic CIS returns for the first time. Contractors have the option to file either by paper, online or exceptionally by telephone for a nil return – where no subcontractors have been paid that month. Since 2007, HMRC has pre-populated the returns with data from previous returns and details of subcontractors who have been newly verified in the first 28 days of the month. This saves the contractor time in data entry and helps ensure accurate data. HMRC currently provides a portal for smaller contractors to file online. Alternatively many payroll bureaux and payroll software providers market suitable products for commercial use. These are widely used by larger contractors.

**3.3** About two thirds of CIS contractors are also employers who file regular PAYE returns through Real Time Information (RTI) processes. In 2007, HMRC introduced mandatory online filing of PAYE and VAT returns. Online filing is now mandatory for all employers with relatively few exceptions.

**3.4** The number of contractors filing online has steadily increased with 80% - around 120,000 - now choosing this method. Research carried out in 2010 by Mori<sup>3</sup> confirmed many prefer the certainty of online filing as the return is acknowledged immediately. Internal analysis of a small sample of those continuing to file paper CIS returns shows that these contractors do have access to a digital channel and are complying with other HMRC filing obligations through online channels.

**3.5** The Government's digital strategy is to offer high-quality, convenient and up-to-date services so that those using them become digital by default. By this we mean digital services that are so straightforward and convenient that all those who can use them will choose to do so whilst those who cannot are given support to ensure that they are not excluded.

### Proposed CIS Online System improvements

**3.6** HMRC believe that a system upgrade is needed to provide a good service for all CIS returns to be filed online. The current system was not designed to handle today's volume of contractors using it.

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<sup>3</sup> <http://www.hmrc.gov.uk/research/eval-cis.pdf>

**3.7** One option currently being examined is the Real Time Information channel currently used for PAYE returns. HMRC's aim is that contractors who are also employers would only need to access one online channel to file returns for CIS and PAYE, and to carry out other CIS functions. This could simplify the filing process and bring immediate benefits to small companies without gross payment status, as CIS deductions could then be automatically set against their in-year PAYE.

**3.8** An improved online service would allow contractors to amend or correct CIS returns already submitted; a process that is currently only available through the CIS helpline. This proposal would allow better management of subcontractor data and benefit both contractors and HMRC. Presently if a contractor wishes to amend a previously submitted return online, the system does not recognise it as an amendment and creates a duplicate return. There is no limit to the number of times a contractor can do this in the current system and so multiple returns may appear on a customer record.

### **Mandatory CIS online Filing**

**3.9** Many of the benefits of system improvements would only be fully realised if all CIS returns were made online. We are therefore proposing to mandate online filing. This would also enable HMRC to make substantial administrative savings.

**3.10** Provisions would of course be made in regulations for those who religiously object to using electronic forms of communication. In addition HMRC would ensure that contractors who are unable to use an approved method of electronic communications will be able to file through a non-digital channel.

**3.11** The summary of responses document will set out our timetable for online improvements. Subject to the consultation we would expect CIS returns to become mandatory by October 2016 at the earliest. Updated guidance will be available to customers as changes are made.

**Question 4: Will removing the option to make monthly CIS returns by paper present your particular business with any issues. How could HMRC help you overcome any difficulties.**

### **A new CIS online appeals service**

**3.12** If a contractor fails to submit returns on time, HMRC charges penalties.<sup>4</sup> To work alongside the new CIS online service, HMRC intends to adopt an automated system for processing CIS penalty appeals.

**3.13** CIS penalty notifications are automated; notices and charges are automatically generated by HMRC systems once the filing date has been missed by the contractor. The contractor or an agent must submit an appeal in writing specifying grounds for appeal within 30 days from the date of issue of the penalty.

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<sup>4</sup> Details of the current penalty regime can be found in Annex A on page 22.

- 3.14** A substantial amount of manual work is undertaken to deal with penalty appeals. HMRC believes that mandatory online filing of CIS returns would enable the introduction of an online appeals service similar to that being proposed by HMRC for employers.
- 3.15** The current Real Time Information channel has a mechanism to allow HMRC to send notifications to employers that provide reference numbers for penalties levied on them. Employers can now appeal online. Following an online appeal a penalty will be cancelled by the system if that is appropriate: if the case can't be resolved it will be sent for clerical review. HMRC would be able to adopt a similar service for CIS penalties if CIS online returns are fully mandated.
- 3.16** Customers are notified by an online messaging service in real time if their appeal is accepted immediately or referred for manual review. HMRC anticipate this process will replace the current paper based appeals service from the date of implementation. The paper based service will still be available for legacy penalties.
- 3.17** Customers will still be able to request a review of an appeal decision and appeal to a tribunal at any stage of the process. There will be no changes to penalties legislation as a result of this proposal. The service is expected to generate savings for businesses as they will no longer need to call or write to HMRC with evidence of their appeal in many cases. There will also be considerable savings for HMRC in reduced customer contact.

**Question 5: Would you welcome an online appeals service.**

**A change to the Nil Return obligation**

- 3.18** Many of the penalties currently issued to contractors are for 'nil returns' where no payments to subcontractors have been made. Industry representatives told us they would like to see this obligation removed to relieve the burden of unnecessary reporting for contractors and to remove unfair penalties. They would however welcome the facility to make a voluntary nil return to suppress penalty notices.
- 3.19** As a result HMRC intends to remove the statutory obligation to report a nil return, removing the potential for a penalty to arise in these circumstances. However when a return is not received by the filing date, HMRC systems will not know whether the reason is because the contractor is simply late filing the return or there is no return due. Therefore HMRC intends to operate a simple nil voluntary notification to enable contractors to notify us if they did not pay subcontractors and this will stop a penalty notice being sent out. Otherwise subcontractors will be able to use the online service to appeal against penalties received if no payments were made to subcontractors.

**The digital vision for CIS**

- 3.20** At present subcontractors who are paid under deduction and do not have gross payment status must make a repayment claim at the year end. If there are errors or inaccuracies on the monthly returns from contractors or because the subcontractor has incomplete payment and deduction statements issued by contractors this can mean that there are delays in making repayments.
- 3.21** Payment and deduction statements are frequently and easily mislaid. In repayment claims where the data does not match, HMRC has to reconcile the difference between what the contractor has reported on monthly returns and the subcontractor's claim for repayment. In relation to the previous scheme, KPMG said "information retrieval and exchange and information matching between third parties is a major component of the total CIS business burden" (KPMG, 2006).
- 3.22** Much of this data error could be resolved if the subcontractor and contractor had access to an online account where payments made and received could be viewed in real time. A new system could reduce errors, provide subcontractors with automatic online payment statements and create a permanent online record of transactions. A further possibility is that sub-contractors reclaim overpayments using an online account.
- 3.23** Our customers increasingly expect and use quality digital services in other areas. HMRC's vision is to build on the proposed improvements already set out by integrating CIS into its existing digital programme "My Tax" to enable customers to log on and have instant visibility of transactions. 'My tax' could operate as a 'one stop shop' where Unique Taxpayer References and Company Reference Numbers are integrated in one location and businesses can amend their details online if they change status from a sole trader to a limited company. This will minimise account confusion and reduce errors within the CIS system.
- 3.24** As well as posing substantial benefits for customers, a digital account would substantially reduce HMRC postal costs and reduce the number of telephone calls to the CIS helpline. This is an ambitious vision, and HMRC would be interested in customers' views on how useful these digital enhancements could be.

**Question 6: Would an integrated online account help reduce costs and reduce the burden of operating the scheme.**

## 4. Improving the verification process

### Introduction

- 4.1** The Government is seeking views on how the verification process may be improved.
- 4.2** Verification is the process used by contractors to check that subcontractors have the correct rate of deduction applied to their payments under the scheme. The obligation to verify every subcontractor prior to making a monthly return is a considerable administrative burden for contractors. In the year to 31 December 2013 there were around 1.5 million verifications.
- 4.3** Therefore as part of a series of improvements to online services, HMRC would like to improve the current service and consider mandatory online verification. In the future HMRC are also considering whether the requirement for verification could be scaled down to only those subcontractors who claim to have gross payment status.

### The Current CIS Verification System

- 4.4** At present, the scheme requires contractors to determine the payment status of all subcontractors who they agree a contract with. The contractor can verify the subcontractor's status on-line or by phone by providing HMRC with several pieces of information.<sup>5</sup>

### An improved Online Verification System

- 4.5** Most contractors verify their subcontractors online. When this system works well the verification notification and the rate of deductions just takes a few minutes. However, the current online system does not offer a specific search facility and requires contractors to scroll through many screens if they wish to find a previously verified subcontractor.
- 4.6** Many contractors choose to re-verify a subcontractor to be certain they have fulfilled their responsibility. In many of these cases the contractor has already verified the same subcontractor in the current year or previous two years and there is no requirement to verify again. But the current tool is not equipped to allow the contractor to quickly find the verification number previously issued. This results in unnecessary calls to the CIS helpline.
- 4.7** Large numbers of telephone verifications create long waiting times for contractors. This is a particular problem for onsite contractors who cannot wait on hold for long periods. When HMRC spoke to contractors, most said they would welcome a quicker online verification process that was more robust.
- 4.8** An improved online service would be able to offer a facility for contractors to search for previous verifications. The new service may also include a facility to

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<sup>5</sup> You can find detailed information on the process and current deduction rates in Annex A on page 22.

verify more than one subcontractor at a time. HMRC are also exploring ways to improve the online service to match the service levels given by telephone operators. For example a telephone operator is able to offer assistance in matching subcontractors who have a UTR but a misspelt name or other missing data.

**Question 7: Would a search facility and/or a facility to verify more than one subcontractor at a time make the online verification service more user friendly. Is there anything else about the online service you would like to see improved.**

### **Proposal to mandate online verification**

**4.9** HMRC believes that a new online verification system will substantially improve the level and reliability of the CIS verification process, and expects that the remaining contractors who presently use the telephone service will choose to use an improved online or app accessed service. This aligns with HMRC's digital by default vision and will make it possible to consider switching off the current telephone verification service. Approximately 80% of contractors already use the online service. HMRC propose that an improved mandatory online verification service should be introduced with specific support for contractors who are unable to use an approved method of electronic communications.

**4.10** HMRC appreciates that many contractors do not have site offices available for online verification. So to help site based contractors HMRC are considering developing a verification 'app' to use on a Smartphone or other mobile device.

**4.11** To further help site based contractors, HMRC may consider amending regulations to allow contractors extra time to verify subcontractors. At present contractors are required to verify their subcontractor as soon as a contract is agreed. If mandation of online verification goes ahead, HMRC could consider allowing contractors extra time to verify their subcontractors, by amending the regulations that currently require verification before a payment is issued, rather than after agreeing a contract.

**Question 8: HMRC would like to understand what impacts removing the option to verify subcontractors by telephone could have on your business. How could HMRC help you overcome any difficulties.**

**Question 9: Would a Smartphone verification 'app' be a useful enhancement to the service and likely to be used by your business.**

**Question 10: Would allowing extra time to verify workers be helpful if online verification was mandatory**

### **A simplified verification system**

**4.12** The current verification process requires the contractor to provide four pieces of information about themselves and three or more pieces of information about the subcontractor. It plays an important role in the CIS scheme by ensuring that tax is deducted from the right subcontractors at the right rate. It also provides an

initial check for the contractor on the accuracy of the data – that is, the name, unique taxpayer reference and National Insurance number - provided by the subcontractor. This verification process means that the information provided on contractors' monthly returns is more likely to be accurate.

**4.13** The details of subcontractor deductions made by contractors are transferred to the subcontractors self assessment record at the end of the year. This allows the tax deducted to either be off-set against any outstanding tax liability or to be repaid to the subcontractor. If the data on the return is incorrect then HMRC will be unable to reconcile a subcontractor's claim. Correcting the records imposes a burden on the subcontractor and HMRC.

**4.14** HMRC are considering whether the requirement for verification could be scaled down to only those subcontractors who claim to have gross payment status. It is important that any changes do not compromise HMRC's ability to match deductions to individual subcontractors' records.

**Question 11: Do you have any views on how the existing verification process could be improved.**

**Question12: Would it be feasible to remove the obligation to verify from certain categories of subcontractor.**



## 5. Summary of Impacts

### Table of impacts

This table represents the Government's current understanding of the impact of this measure. This information will be updated to take into account responses to this consultation and a revised table will be published as part of the Tax Information and Impact Note alongside draft legislation in the autumn.

### Summary of Impacts

<b>Exchequer impact (£m)</b>	2011-12	2012-13	2013-14	2014-15	2015-16
	nil	nil	nil	nil	nil
	This measure is not expected to have any Exchequer impact.				
<b>Economic impact</b>	This measure is not expected to have any economic impacts.				
<b>Impact on individuals and households</b>	The proposals in this document will impact individuals who are registered as subcontractors within the Construction Industry Scheme (CIS). These individuals will benefit from the simplification proposals to gross payment status. Some additional support may be required as verification and online filing are made mandatory. There is no anticipated impact on households.				
<b>Equalities impacts</b>	The majority of those using the scheme are male. There will be some equalities impacts on contractors who are not able to access a digital channel or object to online filing and/or verification on religious grounds. In these cases once HMRC is satisfied a customer is digitally excluded, provision for capture of the data in non-digital format will be made. The same criteria used for assessing customers in the Real Time Information programme will be used. The Government does not expect the number of digitally excluded contractors to be significant.				
<b>Impact on businesses and Civil Society Organisations</b>	These proposals are expected to relieve some of the regulatory burden of the CIS scheme by moving more processes online and therefore there will be some savings in the cost of calling HMRC and postage costs. Businesses will also benefit from simpler gross payment status tests allowing them greater control of their cashflow and less time spent in administrative processes claiming back deductions from HMRC.				
<b>Impact on HMRC or other public sector delivery organisations</b>	HMRC will incur costs to make changes to, or introduce new, IT systems to enable improvements to the CIS. There will also be annual administrative savings for HMRC once the new processes are implemented. The levels of costs and savings will depend on the final design of the changes and will be established as the				

	details of the new processes are developed.
<b>Other impacts</b>	None

**Do you have any comments on the assessment of equality and other impacts in the summary of impacts table on page 17.**

## 6. Summary of Consultation Questions

**Question 1: Will decreasing the upper limit of the turnover test enable your business to apply for gross payment status. Do you have any other comments on the turnover test.**

**Question 2: Will simpler annual compliance tests encourage you to apply for gross payment status if you haven't already or have been refused in the past.**

**Question 3: What are some of the other barriers to the take up of gross payment status. Is there an advantage to net status in some situations. Why do some contractors never apply for gross payment status.**

**Question 4: Will removing the option to make monthly CIS returns by paper present your particular business with any issues. How could HMRC help you overcome any difficulties.**

**Question 5: Would you welcome an online appeals service.**

**Question 6: Would an integrated online account help reduce costs and reduce the burden of operating the scheme.**

**Question 7: Would a search facility and/or a facility to verify more than one subcontractor at a time make the online verification service more user friendly. Is there anything else about the online service you would like to see improved.**

**Question 8: HMRC would like to understand what impacts removing the option to verify subcontractors by telephone could have on your business. How could HMRC help you overcome any difficulties.**

**Question 9: Would a Smartphone verification 'app' be a useful enhancement to the service and likely to be used by your business.**

**Question 10: Would allowing extra time to verify workers be helpful if online verification was mandatory**

**Question 11: Do you have any views on how the existing verification process could be improved.**

**Question 12: Would it be feasible to remove the obligation to verify from certain categories of subcontractor.**

**Question 13: Do you have any comments on the assessment of equality and other impacts in the summary of impacts table on page 17.**

## 7. The Consultation Process

This consultation is being conducted in line with the Tax Consultation Framework. There are 5 stages to tax policy development:

- Stage 1 Setting out objectives and identifying options.
- Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.
- Stage 3 Drafting legislation to effect the proposed change.
- Stage 4 Implementing and monitoring the change.
- Stage 5 Reviewing and evaluating the change.

This consultation is taking place during stage 1 of the process. The purpose of the consultation is to seek views on the policy design and any suitable possible alternatives before consulting later on a specific proposal for reform.

### How to respond

Responses should be sent by 22 September 2014, by email to [review.cis@hmrc.gsi.gov.uk](mailto:review.cis@hmrc.gsi.gov.uk) or by post to

Julie Campbell  
HM Revenue and Customs  
Employment Status Team  
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A summary of the questions in this consultation is included at chapter 7.

Telephone enquiries 03000 586670 (from a text phone prefix this number with 18001)

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from [HMRC Inside Government](#). All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

### Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

## Consultation Principles

This consultation is being run in accordance with the Government's Consultation Principles. [If you wish to explain your choice of consultation period, this is the place. Also, if you are holding additional meetings or using alternative means of engaging, please mention this here].

The Consultation Principles are available on the Cabinet Office website: <http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

If you have any comments or complaints about the consultation process please contact:

Oliver Toop, Consultation Coordinator, Budget Team, HM Revenue & Customs, 100 Parliament Street, London, SW1A 2BQ.

Email: [hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk](mailto:hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk)

Please do not send responses to the consultation to this address.

# Annex A

## The Current Scheme (CIS)

The scheme sets out rules for how payments to subcontractors for construction work must be handled by contractors in the construction industry and certain other businesses.

The person or company commissioning the construction work is known as a contractor, and the person or company carrying out the construction work is known as a sub-contractor. Many businesses are both contractors and subcontractors.

Subcontractors vary from large companies turning over millions of pounds to small partnerships and self-employed individuals.

In 2012-13, HMRC received around £3.9 billion in deductions from CIS with around one million active subcontractors and 170,000 contractors in the scheme.

Construction industry subcontractors are obliged to register both with the CIS in and with HMRC for ITSA or CTSA. When they register HMRC determines their status as either a net payee subject to a 20% deduction on all payments for construction related work, or a gross payee, subject to no deduction. If a subcontractor is not registered with the CIS, all their payments are subject to a 30% deduction.

The 30% CIS deduction rate protects government revenues from those who fail to register for ITSA or CTSA. This withholding tax rate is higher than that ordinarily paid by subcontractors and incentivises them to register for the scheme and for ITSA or CTSA and reclaim tax overpayments.

### History of CIS

The scheme has undergone several reforms over the years. The current scheme was introduced in 2007. This reformed the 1999 scheme, by establishing an option of filing an electronic CIS return and creating a new verification system to replace registration cards and tax certificates. These reforms aimed to relieve the CIS regulatory burden and improve levels of compliance. The table below plots the scheme's timeline from its introduction to present day.

### Timeline

Date	Intervention
1972	New deduction scheme introduced for self-employed individuals
1975	Scheme extended to include limited companies
1999	Revised scheme introduced to include tighter compliance test, a turnover test and mandatory registration cards
2002	The limited company set off procedure changed to enable CIS and

	PAYE to be set off against the company's own monthly PAYE/NICs/CIS liabilities
2007	New CIS – removal of vouchers, registration cards and tax certificates. New electronic returns and verification process

## The main features of the current scheme

Contractors deduct an amount representing income tax from payments to subcontractors, unless the subcontractor meets certain conditions. The current rates of deduction are 20% and 30%. The higher rate applies where a subcontractor is not registered with HMRC or cannot be matched to HMRC's records.

Sole-traders and partnerships subcontractors can set the amounts deducted against their eventual liability for tax and National Insurance contributions under the Self Assessment regime. Subcontractors that are limited companies can offset their deductions against any liabilities they may have as an employer and/or contractor. Any deductions they are not able to offset in this way are then repaid at the year end.

Subcontractors who pass certain statutory business, compliance and turnover tests can apply to receive such payments in full, without deduction. The box below sets out how the scheme works for contractors and subcontractors.

<b>Contractor responsibilities</b>
Register with HMRC if the scheme applies
Verify each subcontractor and apply the correct tax treatment unless this has been done in the current or previous two years
Make deductions from payments made to subcontractors if instructed
Provide subcontractors with a payment and deduction statement if net
Make monthly returns to HMRC showing all payments to subcontractors
Make monthly payments to HMRC of all deductions collected.
<b>Subcontractors responsibilities</b>
Register with HMRC for both the scheme and self assessment. If not a 30% rate of deduction will be applied to all payments by the contractor.

## Penalties and Appeals

<b>The current process for CIS penalties and appeals</b>
Monthly returns must reach HMRC within 14 days of the end of the month
Non submission or late filing of returns are subject to automatic penalties
Filing date missed – £100
2 Months late – £200
6 Months late £300 or 5% of the CIS Deductions, whichever is higher

12 Months late £300 or 5% of the CIS Deductions, whichever is higher
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## Compliance Test Current Requirements

There are several areas of compliance that need to be met:

All partners in a business or directors (and beneficial shareholders, where the company is controlled by five or fewer persons) are required to have submitted all tax returns and paid all tax due on time in the 12 months before the application and to have complied with any request by HMRC for any information about their tax affairs in that period. The compliance of the directors or shareholders is only checked on their initial application, the company is then subject to annual compliance tests.

To maintain gross-payment status a subcontractor must maintain compliance with their full range of tax obligations, including a good record of meeting all relevant annual Income Tax Self Assessment (ITSA), Corporation Tax Self Assessment (CTSA), Pay As You Earn (PAYE) and Companies House obligations, as well as making regular CIS and PAYE P11D returns. HMRC carry out in an annual Tax Treatment Qualification Test (TTQT).

### Current allowance for error within the compliance test

- The current annual TTQT allows some subcontractor compliance errors without removing gross payment status. Gross payment status is withdrawn if in the 12 month period HMRC have received:
  - contractor monthly returns (including a nil return) late on four or more occasions
  - one of the contractor monthly returns more than 28 days late
  - CIS/PAYE deductions late on four or more occasions
  - one payment of PAYE/CIS deductions more than 14 days late
  - one payment of Self Assessment tax more than 28 days late
  - one payment of Corporation Tax more than 28 days late
- Gross payment will also be withdrawn if, at the date of the Review, there is an outstanding overdue employer's end of year return (form P35), Self Assessment return (Income or Corporation Tax) or an overdue payment of £100 or more

## Verification Requirements

Before a contractor can make a payment for construction work to a subcontractor, they must decide whether they need to verify the subcontractor. They should normally have agreed a contract with the subcontractor before they decide whether verification is necessary.

Verification is the process HMRC use to check that subcontractors have the correct rate of deduction applied to their payments under the scheme. The contractor contacts HMRC either by phone or through online channels with details of the subcontractor.



HMRC check that the subcontractor is registered with them and they then tell the contractor what rate off deduction to apply if any.

Whichever method the contractor chooses the following details are needed:

- the name of the contractor's business or organisation
- unique taxpayer reference (UTR)
- the Accounts Office reference
- the employer reference

The contractor will also need the following information about the subcontractor:

- their name, or the name of their business or company
- their UTR
- the partner's name if they're a partnership
- their National Insurance number if they're a sole trader
- the partner's UTR or National Insurance number if they're a partnership (or, if the partner's a company, that company's UTR or company registration number)
- their company registration number if they're a company