

**1 Construction industry scheme**

- (1) Schedule 1 contains provision amending Chapter 3 of Part 3 of FA 2004 (construction industry scheme).
- (2) This section and that Schedule have effect for the tax year 2021-22 and subsequent tax years.

## SCHEDULE 1

Section 1

## CONSTRUCTION INDUSTRY SCHEME: AMENDMENTS

*Introductory*

- 1 Chapter 3 of Part 3 of FA 2004 (construction industry scheme) is amended as follows.

*Contractors*

- 2 (1) Section 59 of FA 2004 (contractors) is amended as follows.
  - (2) In subsection (1), for paragraph (l) substitute –
    - “(l) a person carrying on a business at any time if, in the period of one year ending with that time, the person’s expenditure on construction operations exceeds £3,000,000.”
  - (3) For subsections (2) and (3) substitute –
    - “(2) But this section only applies to a body or person falling within any of paragraphs (b) to (fa) or (h) to (k) of subsection (1) at any time if, in the period of one year ending with that time, the body or person’s expenditure on construction operations exceeds £3,000,000.
    - (3) Where the condition in subsection (1)(l) or (2) is met in relation to a body or person at any time, the body or person may elect for the condition to be treated as no longer being met if, at that time, the body or person is not expected to make any further expenditure on construction operations.
    - (3A) Where the condition in subsection (1)(l) or (2) ceases to be met in relation to a body or person at any time, the body or person may elect for the condition to be treated as continuing to be met until the body or person is not expected to make any further expenditure on construction operations.
    - (3B) Subsections (3) and (3A) do not prevent the condition in subsection (1)(l) or (2) from being met again in relation to the body or person.”
- 3 (1) This paragraph applies where –
  - (a) the condition in section 59(1)(l) or (2) of FA 2004 was met in relation to a body or person immediately before the amendments made by paragraph 2 come into force, and
  - (b) on the coming into force of those amendments, that condition would (but for sub-paragraph (2)) cease to be met in relation to the body or person.
- (2) The condition in section 59(1)(l) or (2) of FA 2004 (as the case may be) is treated as continuing to be met in relation to the body or person until the body or person is not expected to make any further expenditure on construction operations (within the meaning given by section 74 of FA 2004).

*Deductions for materials*

- 4 In section 61(1) of FA 2004 (deductions on account of tax from contract payments), for “any other person” substitute “the sub-contractor”.

*Grace period*

- 5 In section 61 of FA 2004 (deductions on account of tax from contract payments), after subsection (3) insert –
- “(4) Subsection (5) applies where the contractor is a person falling within section 59(1)(l).
  - (5) An officer of Revenue and Customs may, if the officer considers it appropriate to do so, by notice in writing –
    - (a) exempt the contractor from the requirement to deduct sums from contract payments under subsection (1) for a specified period;
    - (b) treat the contractor as if such an exemption had applied in relation to –
      - (i) specified contract payments made before the date of the notice, or
      - (ii) contract payments made during a specified period before the date of the notice.
  - (6) The period referred to in subsection (5)(a) –
    - (a) must not exceed 90 days, but
    - (b) may be extended by one or more further notices under subsection (5).
  - (7) In subsection (5) “specified” means specified in the notice.”

*Restrictions on set-off*

- 6 (1) Section 62 of FA 2004 (treatment of sums deducted) is amended as follows.
- (2) After subsection (3) insert –
- “(3A) Regulations under subsection (3) may include provision authorising an officer of Revenue and Customs to –
    - (a) correct an error or omission relating to a set-off claim;
    - (b) remove a set-off claim;
    - (c) prohibit a person from making a further set-off claim, for a specified period or indefinitely.
  - (3B) Regulations under subsection (3) that include provision of the kind mentioned in subsection (3A) may, for example, include provision –
    - (a) allowing the things mentioned in subsection (3A)(a) to (c) to be done by amending a return (including a return not made under the regulations) or otherwise;
    - (b) allowing a set-off claim to be removed where the claimant is not eligible to make the claim (including where the claimant is not a company, not a sub-contractor, or is registered for gross payment);

- (c) requiring information to be given to the Commissioners of Revenue and Customs, at such times as may be specified in the regulations.
- (3C) In subsections (3A) and (3B), “set-off claim” means a claim for treating a sum deducted under section 61 as paid on account of any relevant liabilities.”
- (3) In subsection (4), for “subsection (3)” substitute “this section”.

### *Penalties*

- 7 (1) For section 72 of FA 2004 (penalties) substitute –

#### **“72 Penalties**

- (1) This section applies in a case within subsection (2), (3) or (4).
  - (2) A case is within this subsection if a person (“A”) –
    - (a) makes a statement, or furnishes a document, which A knows to be false in a material particular, or
    - (b) recklessly makes a statement, or furnishes a document, which is false in a material particular,
 for the purpose of becoming registered for gross payment or for payment under deduction.
  - (3) A case is within this subsection if a person (“A”) who exercises influence or control over another person (“B”) or is in a position to do so –
    - (a) makes a statement, or furnishes a document, which A knows to be false in a material particular, or
    - (b) recklessly makes a statement, or furnishes a document, which is false in a material particular,
 for the purpose of enabling or facilitating B to become registered for gross payment or for payment under deduction.
  - (4) A case is within this subsection if a person (“A”) who exercises influence or control over another person (“B”) or is in a position to do so –
    - (a) encourages B to make a statement, or furnish a document, which A knows to be false in a material particular, or
    - (b) encourages B to make a statement or furnish a document –
      - (i) which is false in a material particular, and
      - (ii) where A is reckless as to whether the statement or document is false in a material particular,
 for the purpose of enabling or facilitating B to become registered for gross payment or for payment under deduction.
  - (5) In a case where this section applies, A is liable to a penalty not exceeding £3,000.”
- 8 Paragraph 7 applies only where the statement is made, or the document is furnished, on or after 6 April 2021.