



HM Revenue
& Customs

Tackling Construction Industry Scheme Abuse

Summary of Responses

12 November 2020

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Tackling Construction Industry Scheme Abuse

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Executive Summary

- The Government remains committed to tackling abuse of the Construction Industry Scheme (CIS) rules, ensuring that HMRC can act quickly where the rules are being broken and so level the playing field for all those operating within the construction sector.
- This consultation set out a number of proposals to tackle that abuse as well as early ideas for measures to tackle fraud in construction supply chains.
- The measures to tackle abuse were generally supported, and the Government will take account of the points made around implementation as appropriate in the legislation and associated guidance.
- The responses on the supply chain proposals will help the Government decide which measures merit further work, which could work with some adaptations, and which should not be considered further.
- The Government is very grateful for the other ideas put forward both for tackling abuse of the CIS and for improving its operation more generally and looks forward to working with the sector and its representatives to develop these further.

2. Introduction

Background to the consultation

- At March 2020 Budget, the Government launched a consultation on *Tackling Construction Industry Scheme Abuse*¹, proposing changes to the Construction Industry Scheme (CIS) rules to prevent tax loss.
- The consultation asked a number of questions designed to seek views on a new power that will enable HM Revenue and Customs (HMRC) to correct the amount of CIS deduction claimed on a sub-contractor's employer return where HMRC identify or suspect inaccurate amounts have been claimed. The document also set out changes to clarify the rules on the cost of materials and deemed contractors, and to expand the scope of the CIS false registration penalty.
- The supply chain proposals outlined in the consultation were developed to help tackle fraud in the sector by encouraging large contractors to take responsibility for identifying all the parties within their supply chains and to provide reliable information to HMRC throughout a construction project.

Summary of responses

- This document summarises the responses received to the consultation, which was published on 19 March 2020 and closed on 28 August 2020. The consultation deadline was extended by three months in recognition of the impact of COVID-19 on the construction sector.
- The Government received 34 written responses and held four roundtable meetings with external stakeholders. We are grateful to all those with whom we discussed the consultation and those who submitted responses, recognising the time and effort that went into them, particularly during the uncertainty resulting from COVID-19.
- The responses and external discussions have been useful in helping the Government to understand respondents' views on the proposals as well as the impacts on the construction sector.
- The Government has carefully considered all the points made and these views will help to inform the future policy direction.
- The following chapters summarise the responses received, the Government's response, and next steps. Annex A provides a list of stakeholders who responded to this consultation.

¹ A copy can be found at: www.gov.uk/government/consultations/tackling-construction-industry-scheme-abuse

3. Responses

The following four sections summarise the responses received. The specific questions explored four areas:

- the implementation of a new power to allow HMRC to correct the CIS deductions claimed on an employer return
- other legislative changes designed to clarify or expand existing provisions
- early ideas around supply chain measures
- assessment impacts.

A new amendment power: to permit HMRC to correct the CIS credit claimed on an employer return

Preventing later claims for CIS deductions where HMRC has corrected the CIS credit

Where HMRC amend a CIS deduction claim the proposal is to prevent the employer from making similar claims on the Employer Payment Summary (EPS) for the remainder of the tax year. But where an employer belatedly provides genuine evidence of CIS deductions suffered, HMRC will consider allowing them to set off further CIS deductions on a later EPS return.

Question 1: *Are there other circumstances where HMRC should allow an employer to claim CIS set-offs later in a tax year following HMRC correction of an EPS return?*

Some respondents were surprised HMRC did not already have this power, and others emphasised that where there was collusion or fraud HMRC should prosecute the perpetrators. Respondents were keen to know how HMRC would communicate any corrections to whoever has prepared the Real Time Information (RTI) returns as employer records will need to match those of HMRC to avoid reconciliation problems.

The key points made were:

- it would be sufficient for HMRC to make the correction without the sub-contractor being prevented from claiming making further CIS set-offs, particularly where the claims are a result of error
- allowance should be made for at least one mistake to be made in a tax year before preventing future set-off
- HMRC should consider “switching off” the CIS deduction field on an EPS where the employer is not within CIS, perhaps requiring the subcontractor to complete an extended EPS with the information from the statements it has been provided with, or requiring the employer to confirm on the EPS that it is both a limited company and operating in the construction industry
- HMRC should consider a more flexible approach, so lifting the set-off ban after a sub-contractor demonstrates compliance for a certain period, but where there are repeated errors set-off should be prevented permanently.

Government response

The Government understands that dialogue with the sub-contractor is key to exploring the reason for unverified claims being made. Sub-contractors will have an opportunity to explain to HMRC the circumstances around any unverified claim being made, and where there are genuine errors the sub-contractor can correct the claim themselves without further consequences. This means that they can continue to set-off genuine CIS deductions they have suffered in the future.

It is only where the sub-contractor refuses to make the correction that HMRC will do so and that further set-offs in the same tax year will be prevented. This is essential in order to prevent sub-contractors simply reclaiming the amount HMRC has corrected in a later return.

Interest and penalties

The proposal was that the usual interest and penalty rules should apply where payment of any revised employer liability generated as a result of an amendment of the CIS deduction claim is late.

Question 2: *Do you have any comments on the interest and penalty consequences of HMRC making these corrections to an EPS return?*

Some people suggested a light touch approach was needed to allow employers time to embed new processes in order to meet their obligations. Others said the proposal to follow the usual rules was fair and reasonable provided the sub-contractor has adequate notice to arrange payment.

Other points included:

- the amendment should be subject to interest and penalties as allowed by the legislation and that penalties should be set aside if a reasonable excuse is provided
- HMRC should carry out an investigation of inappropriate set-off before any corrections are made with any penalty reflecting the ability and willingness to comply with the enquiry
- there should be a 'de minimis' limit on the interest charge to allow for minor errors and penalties should only apply to persistent offenders.

Government response

The government confirms that the usual interest and late payment penalty rules will apply where additional sums become due for payment following these amendments. All penalties carry a "reasonable excuse" defence and incorrect return penalties are based on behaviour. Where the amendment relates to a closed tax year the interest rules will apply from 19/22 April following the end of the relevant tax year as with other amendments to an employer's liability made after the end of the tax year.

Evidence of CIS deductions suffered

The consultation suggested that a Pay and Deduction Statement (PDS), which a contractor is required by law to provide when paying a sub-contractor, was suitable evidence of deduction, but asked what other evidence might be acceptable.

Question 3: *Are there other sources of evidence HMRC should accept as proof that a CIS deduction on account of tax has been made?*

The most common suggestions were:

- a bank deposit that can be matched to an invoice;
- a copy of applications for payment from the sub-contractor to the contractor relating to a construction payment
- a statement from the relevant contractor accompanied by suitable invoice evidence
- HMRC should adopt a flexible approach by judging the evidence in each case on its own merits.

A few people suggested that it would be helpful if HMRC could make available the details of deductions made and reclaims available via individual or company platforms so sub-contractors could see what has been deducted and subsequently paid on their behalf and by whom.

Government response

The Government agrees that HMRC should discuss what evidence is available with the sub-contractor as necessary, particularly in those cases where the contractor has not completed returns on time or provided the sub-contractor with evidence of deduction and there is no collusion.

Disregarding evidence in certain circumstances

The consultation stated that some contractors and sub-contractors may collude in providing false PDS to HMRC and suggested that HMRC could disallow CIS set-off claims where they suspect such collusion has occurred.

Question 4: *Do you have any comments on HMRC being able to disregard certain evidence in deciding to use the correction power?*

There was some support for this proposal but also suggestions that HMRC should never ignore any evidence provided.

Comments included the following:

- HMRC should only be permitted to disregard evidence of the deduction of tax in circumstances where they hold evidence of fraud on the part of the individuals concerned rather than mere suspicion
- HMRC should make the best use of existing powers to deal with recalcitrant contractors or abusive behaviour by better assessing the data and information already available and taking action based on identified risks
- HMRC's compliance response should move beyond using the new correction power and, where appropriate, should proceed to potential prosecution.

Government response

As stated above the Government agrees that HMRC should discuss what evidence is available with the sub-contractor but where the evidence does not appear to be genuine or collusion is suspected, HMRC can amend a CIS set-off claim and prevent further set-offs in the same tax year. The usual review and appeal processes will apply to these HMRC decisions where the business is a company having deductions withheld under the CIS.

Timing for providing evidence of deductions and employer correction

The consultation suggested that to deal with this abuse in real time, a sub-contractor should provide evidence of a genuine deduction within 14 days. This was considered a reasonable timeframe given no claim should be made without that evidence being available. If no response was received by HMRC the employer would have a further 14 days to self-correct the return.

Question 5: *Is 14 days the right amount of time for the employer to provide evidence of CIS deductions suffered?*

Most people thought the timeframe would be challenging for sub-contractors, especially where they relied on a bookkeeper or a payroll provider once a month to complete their records. If HMRC could communicate by email, then 14 days could be appropriate.

Question 6: *Is 14 days the right amount of time for the employer to correct the return?*

Several people explained that this timeframe would be challenging where the CIS claim covered a number of payments over a number of months which would have to be reviewed individually, and more especially if that review had to be undertaken by a bookkeeper or a payroll provider rather than in-house.

Question 7: *If not, what timescale do you suggest?*

Most people suggested 28 or 30 days was appropriate for each period, so to provide evidence and to then make any amendment.

Government response

The Government understands the concerns expressed around the timescale for both providing evidence and for the sub-contractor to make the correction. HMRC routinely corresponds with customers via email and will use this format where possible. Sub-contractors are expected to hold evidence of the CIS deduction before they make the set-off claim, but where there are issues around locating or providing that information to HMRC, the subcontractor can agree a mutually acceptable timeframe with HMRC.

HMRC will tell the sub-contractor the verified CIS deduction figure, so making the amendment within the 14-day timeframe should be possible. However, as with the timescale for providing evidence, a mutually acceptable timeframe can be agreed with HMRC for the sub-contractor to make the correction. If the sub-contractor anticipates significant issues in working out the correct sum to claim they can initially make the correction in line with HMRC's verified data, and upon locating the evidence make a claim for a further set-off as there is no time limit to making such a claim.

Taxpayer safeguards

The consultation stated that the usual review and appeal processes would apply where HMRC amend the CIS deduction claim and also where HMRC prevents further set-off in the relevant tax year. Employers will have the opportunity to either provide evidence of their CIS deductions or to self-correct their returns before HMRC make a correction and, as this measure is designed to tackle abuse of the set-off process in near real time, the proposal is that employers will not be able to continue to set-off CIS deductions against employer liabilities during the review and appeal process.

Question 8: *Does this review and appeal process provide adequate protection for subcontractors making errors?*

A small majority of people stated the review and appeal process provided adequate protection.

Several people suggested an employer should not lose the ability to set-off verified deductions while the review and appeal process was ongoing, unless there was an established pattern of non-compliance.

Government response

The Government confirms the usual review and appeal processes will apply where HMRC make an amendment and also where HMRC prevent further CIS set-off claims in the same tax year for limited companies within the CIS. The Government will consider further the suggestion that verified deductions should be available for set-off during the review and appeal process and will legislate and publish guidance confirming the final position in due course.

Question 9: *Should other safeguards be considered in relation to these powers? If so, what should those safeguards be?*

The main suggestion was for HMRC to continue the dialogue with the sub-contractor throughout the process so that any misunderstandings can be resolved quickly and to ensure the rules for claiming a CIS deduction are properly understood.

Other options were:

- where the sub-contractor has made improvements to their systems HMRC should consider reinstating the set-off facility
- decisions on prevention of further in-year set-off should go through an appropriate escalation/governance process at HMRC
- a second internal HMRC review should be undertaken before any further in-year set-off was denied.

Government response

The Government recognises the importance of continued dialogue with the sub-contractor throughout this process and is committed to ensuring appropriate safeguards are in place where a new power is provided to HMRC. The Government will consider the governance process in light of the suggestions made and will publish guidance in due course.

Other options

Question 10: *Are there other options to disallow CIS deductions claimed on an EPS return that are not supported by satisfactory evidence?*

Most of those responding to this question agreed the current proposal was the cleanest and simplest, but it was important to ensure the employer and HMRC records matched where amendments were made.

Other suggestions were:

- the focus should be on persistent offenders
- a phased approach, so initially allowing 50% claim of CIS deductions suffered with this percentage rising and falling depending on later behaviour
- changing the rules to disallow all in-year CIS set-off claims for limited companies across the board.

Government Response

The Government will bear in mind these points in developing and monitoring this policy.

Other legislative changes

This section of the consultation set out changes that will be made to the deemed contractor and costs of materials rules, and to expand the scope of the penalty for making false registration for the CIS. No particular questions were asked about these changes, but comments received are reflected below.

Deemed contractors

i) Threshold test

A number of respondents supported the idea of construction spend being monitored on a rolling basis as a means of both simplifying the current system, which has a number of complicated rules that can lead to confusion, and of solving the perceived opportunities for manipulation.

Other comments were:

- the annual test works well because it can be connected with the preparation of annual accounts
- a 'two way look' assessment could be used to determine whether spend on construction operations has (a) exceeded £3m over the past 12 months, or (b) is expected to exceed £3m in the next 12 months
- uprating the threshold could eliminate much of the alleged abuse as fewer businesses would be above the threshold
- allowing an entity to apply to HMRC for an exception from registration where it is expected that construction spend will exceed the threshold for a very short time
- construction spend should be aggregated rather than calculated separately by reference to each construction project to reduce admin burdens.

Government response

The Government confirms that the new rule will be based on aggregate construction spend. The other suggestions would seem to add complication to the rules but will be kept in mind in monitoring this area.

ii) Registration timescale

Respondents raised concerns around the timescale for registering as a deemed contractor for the CIS, especially for overseas entities. Several people suggested non-UK entities should be allowed additional time to register, say within three months of the £3m threshold being exceeded.

One respondent asked whether HMRC will continue to allow deemed contractors a 'period of grace' to set up the necessary systems and processes to operate CIS and another asked whether the threshold was met at the moment the construction contract in excess of £3m is entered into, or at the point the payment is made under that contract which exceeded £3m in total.

Government response

The Government confirms that the 'period of grace' will continue to apply to help address the registration concerns, and that the threshold rule is triggered when payments made for construction operations exceed £3m.

iii) Deregistration

Several respondents commented on deregistration, pointing out that after a construction project is completed there can be ongoing repairs and maintenance contracts falling within the definition of construction operations. It was suggested that a 'de minimis' test could apply to allow for deregistration in advance of the complete cessation of payments, perhaps when construction payments fall below a certain threshold over a 12-month period.

Government response

The Government has noted these points and will consider providing for deregistration in two scenarios, where construction spend falls below the £3m threshold in a rolling 12-month period or where construction spend ceases. The Government will publish draft legislation confirming the final position in due course.

Cost of materials

A number of respondents agreed the rules on deductions for materials need to be made clearer and agreed that a materials deduction for CIS purposes can only be made where a direct payment has been made by the sub-contractor for these materials. Several respondents disagreed with this view, stating that making this change would prevent certain businesses from claiming deductions where materials are purchased further down a supply chain and these costs are passed back up the chain.

Some respondents suggested amending the rules to prevent any mark-up on the cost of materials from being taken into account in calculating the amount of an invoice on which a CIS deduction has to be made and to remove the use of estimates, thereby ensuring each party receives proof of purchase to account for the exact costs incurred.

Government response

The Government's view is that a contractor is required to operate the CIS on all sums paid under a construction contract except the direct cost of materials to the sub-contractor. As a result, the CIS should be operated on any mark-up on materials and certain other costs (such as travel and subsistence expenses). The indirect cost of materials should be factored into the price set for contract.

This means only the subcontractor directly purchasing materials is entitled to a deduction for those materials. This is in line with general accounting practice in that only those incurring expenditure are entitled to a deduction for that sum in calculating their profits for accounting and tax purposes.

Registration penalty

All of those who responded agreed those submitting false claims should be liable to penalties. Some people stated that the expansion should only target those who were involved in or responsible for the supply of false information, or those who should have

taken action but turned a blind eye, rather than those who were only incidentally involved or who had no knowledge of the position.

Several respondents understood the Corporate Criminal Offence (CCO) legislation would capture this kind of fraudulent behaviour as this legislation allows the government to prosecute a relevant body where it fails to prevent an associated person from facilitating the fraudulent evasion of tax by another person.

Government response

The Government has noted these comments and HMRC will consider the practical points raised as part of the implementation process.

The CCO legislation is criminal in nature and focuses on a company's failure to prevent its staff or an agent acting on its behalf from engaging in the criminal facilitation of tax evasion. Extending the civil penalty for making a false CIS registration is designed to allow HMRC to apply a penalty to a person outside the company/entity but who assists in making the false application; in particular it will allow HMRC to apply the penalty to the person registered as a director even if the corporate entity was falsely incorporated or no longer legally exists.

Other ideas for tackling abuse of the CIS

The consultation asked what else could be done to tackle abuse of the CIS.

Question 11: *Do you have other ideas that could protect the CIS from abuse?*

Suggestions included:

- applying a net deduction of 50% for sub-contractors who are persistently non-compliant
- tightening the process and criteria for securing Gross Payment Status and removing that status where a business deliberately undermines the operation of the CIS
- reviewing penalties to ensure they are sufficiently high to act as a deterrent;
- requiring contractors throughout the supply chain to carry out relevant due diligence activities on their direct sub-contractors
- HMRC should set up a forum to discuss the options to combat fraud collectively with the construction sector
- HMRC should have an advertised process for sub-contractors to report when contractors have failed to give them a PDS.

Government response

The Government is very grateful for these suggestions and will take them into consideration for future policy development. HMRC is in the process of setting up a construction forum where these issues and suggestions can be discussed with the sector and its representatives.

Supply chain proposals

The consultation set out some ideas for early discussion around measures designed to tackle fraud in construction supply chains.

Question 12: *Do you consider supply chain measures to be an appropriate response to this fraud?*

The preferred approach was for HMRC to better risk assess entities using existing returns and data and investigate discrepancies, removing Gross Payment Status from businesses who do not respond promptly or do not provide credible explanations.

Many respondents did not think supply chain measures appropriate. The general view was that these proposals would pose a significant financial and administrative burden on main contractors and the information obtained would soon be out of date.

There were some suggestions that further major industry-specific tax measures should not be undertaken until the VAT Domestic Reverse Charge on construction supplies has bedded in and its effectiveness has been assessed.

Suggestions for the supply chain measures included applying these at the first level of the supply chain, with the obligations 'cascading down' the chain with each contractor being obliged to require explicit confirmation from their sub-contractors that due diligence obligations were met in respect of their own sub-contractors.

Government response

The Government is very grateful for the thoughts provided on the general idea of using supply chain measures to tackle fraud. This information will be used in further considering this area.

Due diligence

The Government is keen to know what due diligence construction businesses currently undertake and posed a number of questions around this in the consultation.

Question 13: *What due diligence checks do you currently undertake on your sub-contractors/suppliers?*

The most common examples respondents gave were the statutory checks that must be considered under the Modern Slavery Act 2015, the Bribery Act 2010, the Criminal Finance Act 2017, and the Sanctions and Anti-Money Laundering Act 2018.

Other due diligence checks carried out on a sub-contractor/supplier include:

- financial checks to ensure the contract can be fulfilled
- Environmental, Health and Safety practice and records
- compliance checks, for example that the business is VAT registered and their current CIS status (with many stating they will only use sub-contractors with Gross Payment Status)
- the legal status of the entity, for example, whether it is a sole trader or limited company (usually via Companies House checks)
- use of specialist third party providers such as ConstructionLine to make informed decisions on suppliers.

Question 14: *When do you undertake these and why?*

In general, respondents stated that due diligence is undertaken when new suppliers are being considered, when drawing up the shortlist for a tender, when contracts commence or are amended, when a project is completed, or prior to payments commencing.

Question 15: *Would you consider undertaking such checks further down your supply chain? If not, why not?*

Most respondents were strongly against the idea of further due diligence checks being imposed further down the supply chain.

The majority of respondents stated that they rely on the main contractor to undertake due diligence as it is often impossible to know who has sub-contracted what work to whom, so identifying the entities would be a time-consuming and costly process.

Question 16: *What action would you take if you were not satisfied following your due diligence checks?*

The majority of respondents stated that they would investigate unsatisfactory findings further and either not award the contract to that business or take action to ensure the sub-contractors and/or suppliers were not considered for future tenders or work.

Government response

The government is very grateful for the information provided by consultees on current due diligence practice. This information will be used in further considering this area.

Specific proposals

The consultation set out some specific proposals and asked for early thoughts on these.

1. Site number

The consultation explained this system operates successfully in Ireland, although recognised that the UK construction sector is much larger, and any system would bring more challenges and likely need significant adaptation.

Question 17: *Could a site registration system work in the UK?*

A small number of respondents supported the idea of site registration, recognising the benefit this scheme could have for site operators and workers but that these needed to be weighed against any potential disadvantages including costs, administrative burden and unintended consequences. Others were more cautiously optimistic, suggesting that if this was a long-term measure and appropriate time, resource and funding was made available, then a site registration system utilising the best aspects of the Irish system could be appropriate.

The main reservations were around the scale of investment required in IT for such a process, the likely complexity of the system, particularly for main contractors, the fact that it could build delay into setting up a site and so getting on with a job, and the value of the information obtained to HMRC.

Government response

The Government is grateful for the responses received and will use them in considering this proposal further.

2. Reporting supply chains

The consultation suggested that HMRC could require 'main contractors', so those at the very top of the construction chain, to notify them of their supply chain for a particular project or contract and flag any concerns to HMRC, particularly around chains that seem unnecessarily long or where entities cannot be readily identified. HMRC could then investigate any suspect entities in the chain. The consultation highlighted a number of areas that would need careful consideration. Specific questions were asked about the burden such a system could impose and how those could be mitigated.

Question 18: *How much detail is needed for these reports to be effective?*

Respondents highlighted that many sub-contractors will work on a project for only a short amount of time and that this should be considered when the Government reviews how much detail is required in these reports and when they should be filed.

Other suggestions included:

- keeping it simple initially and adding more requirements once the scheme is successfully up and running
- a 'de minimis' turnover threshold for reporting and due diligence activities
- reporting only non-UK based entities in the supply chain or any sub-contractors not registered with HMRC under the CIS.

Other responses addressed the level of detail required for reporting to be effective.

Question 19: *What burdens would such a process place on contractors?*

The main issues highlighted were:

- difficulties for main contractors in identifying and verifying details of sub-contractors working at all levels down their supply chain
- having to implement new systems and procedures including redesigning an accounting process and internal training needs
- adding unnecessary pressures between a sub-contractor, contractor and their clients
- adding to burdens already being imposed by other Government regulation.

Question 20: *How could these burdens be mitigated?*

The main suggestions were:

- to apply the due diligence requirement on the engaging contractor (whoever that is in the chain) and for that requirement to only cover his direct sub-contractors
- a statutory requirement for sub-contractors to supply their HMRC verification details to their contractors prior to working on a site
- impose a flat rate deduction on everybody, say 15% or 10%

- a Group CIS administration system would alleviate some of the administration required under the CIS scheme
- a contractor could allow HMRC access to the information it holds on any suspected fraudulent sub-contractor, and work with HMRC to take appropriate action.

Government response

The Government is grateful for these responses and will consider them as part of any further work on supply chain measures.

3. Securing losses due to fraud in the supply chain

The consultation put forward two proposals for doing this where a contractor has been advised of fraud in their supply chain and they have taken no action to deal with it within a reasonable timescale. The proposals are to prevent the contractor from paying their sub-contractors gross, or to require the contractor to pay for the tax losses due to fraud in their supply chain.

Question 21: *Would these two measures encourage better supply chain due diligence processes?*

Most respondents did not support the two proposals despite many people accepting the objective was laudable and probably necessary.

On preventing gross payment some respondents felt this could result in significant cash flow implications for the associated sub-contractors and lead to innocent, compliant contractors and sub-contractors being penalised for fraudulent activity by other entities further down the supply chain.

A small number of respondents supported the second proposal and believed it could encourage better due diligence on the part of contractors, although it was noted that if a party intends to commit fraud it is likely to have sophisticated systems in place to trick a contractor undertaking due diligence.

Several people suggested it would be more appropriate for HMRC to withdraw Gross Payment Status from any entity operating fraudulently in the supply chain.

Government response

The Government will consider the points made in developing any further policies around supply chain measures.

The consultation asked whether any of the supply chain measures should be considered further and for other ideas to combat fraud in construction supply chains.

Question 22: *Do any of these supply chain proposals merit further consideration?*

Just over a quarter of respondents agreed the proposals merited further consideration, albeit some were likely to be more successful than others.

Question 23: *Do you have other ideas that could help combat fraud in construction supply chains?*

Some respondents suggested that the Making Tax Digital platform would allow HMRC to receive data in real time and so better combat fraud in near real time.

Other suggestions included:

- an online system for sub-contractors to advise HMRC where they are working and when
- an obligation for everyone in the supply chain to report potential CIS fraud to HMRC
- detailed due diligence requirements to be undertaken based on guidance from HMRC for level 1 suppliers on their direct sub-contractors with lesser requirements in relation to those entities lower down the chain
- better use of the 'naming and shaming' provisions, more prosecutions and publicity around these, and the need to show a good tax compliance record to be undertaking any government contracts
- the introduction of an 'e-tax passport' available for inspection by contractors and setting out sub-contractors' compliance in respect of all tax filings and payments.

Government response

The government is very grateful for the views received on the early ideas for supply chain measures and will use these to consider which of the proposals merit further work.

Assessment of impacts

Some specific questions were asked about the likely impacts of the proposals set out in Chapters 3 and 4 of the consultation, so excluding the supply chain measures. Most people did not respond to these questions and from the answers received it is likely some respondents were considering the supply chain proposals in answering these questions.

Question 24: *What impact will the changes have on your business?*

The very small number of respondents suggested the impact would include increased administrative burden.

Question 25: *Are there any specific impacts on small and micro businesses that are not covered in the impact assessment? If so, please provide details of the anticipated one-off and on-going costs and burdens.*

Those who responded believed these businesses are less likely to have the administrative capacity to deal with change.

Question 26: *Do you think these proposals will have any impacts on sub-contractors not already covered? If so, please provide details.*

The small number of responses received to this question covered only the supply chain proposals.

Government response

The Government appreciates the responses on the potential impact of these proposals and will use these to inform the associated Tax Information and Impact Note (TIIN). With regard to the set-off measure, a sub-contractor should have evidence of the CIS deduction before making the set-off so it should be relatively quick and easy to provide that to HMRC in cases where the contractor has not filed the associated return and so HMRC cannot verify the deduction.

The information provided on the potential impact of the supply chain proposals will be used in further developing those measures.

4. Next steps

Next steps following the Consultation

- Since the consultation closed the Government has been considering the evidence submitted and using that to inform the policy and draft legislation designed to implement the HMRC amendment power and changes to the existing CIS scheme rules.
- The TIIN and draft legislation will be published in due course and the legislation included in Finance Bill 2021.
- The primary legislation will provide for regulations to cover the detail around the new power to permit HMRC to amend the CIS deduction claim on an EPS.
- The primary legislation will also amend the current CIS legislation in Finance Act 2004 dealing with the costs of materials and deemed contractor rules, and the false registration penalty.
- HMRC will work on the associated guidance for contractors and sub-contractors and this will be available when the new rules take effect.
- The government will continue to consider the shape of any future supply chain measures in light of the information received from this consultation, as well as other changes to the CIS scheme to protect against fraud and abuse.
- HMRC is in the process of setting up a CIS Forum to discuss these issues further with the sector and its representatives.

Annexe A: List of stakeholders

AAT
Balfour Beatty
BDO LLP
Biosite Systems
British Property Federation
Building Engineering Services Association
CIOT
Chartered Institute of Payroll Professionals
Deloitte
Derwent London
DWF Law LLP
FTI Consulting
Grant Thornton UK
Home Builders Federation
ICAEW
ICAS
Institute of Certified Bookkeepers
Joint Taxation Committee
Kier Group
KPMG
Laing O'Rourke
Legal and General
Midlands Unitary Authorities VAT and Tax Group
Moore Kingston Smith
Morgan Sindall Group
PwC
RSM
Scottish Government
Taylor Wimpey plc
The Morson Group
Unite the Union
VolkerWessels UK
Willmott Dixon
Zurich Insurance plc