

2016 No.

INCOME TAX

CORPORATION TAX

**The Income Tax (Construction Industry Scheme) (Amendment)
Regulations 2016**

<i>Made</i> - - - -	***
<i>Laid before the House of Commons</i>	***
<i>Coming into force</i> - -	***

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 136 of the Finance Act 2002(a) and sections 69, 70 and 73 of, and paragraphs 4(3), 7(1), 8(2), 11(1) and (2) and 12(2) of, Schedule 11 to the Finance Act 2004(b) and now exercisable by them(c):

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Income Tax (Construction Industry Scheme) (Amendment) Regulations 2016 and come into force on 6th April 2016.

(2) Regulation 2(2), (3), (5), (6) and (7) have effect in relation to the tax year 2016/17 and subsequent tax years.

(3) Regulation 2(4) has effect in relation to the tax year 2017/18 and subsequent tax years.

Amendment of the Income Tax (Construction Industry Scheme) Regulations 2005

2.—(1) The Income Tax (Construction Industry Scheme) Regulations 2005(d) are amended as follows.

(2) In regulation (2) (interpretation)(e) in the definition of “approved method of electronic communication” after “means” insert—

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- (a) 2002 c. 23.
(b) 2004 c. 12.
(c) The functions of the Commissioners of Inland Revenue under section 136 of the Finance Act 2002, and the sections of, and the paragraphs of Schedule 11 to, the Finance Act 2004 cited, were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that, in so far as is appropriate in consequence of section 5, a reference, howsoever expressed, to the Commissioners of Inland Revenue is to be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.
(d) S.I. 2005/2045; relevant amending instruments are S.I. 2008/740, 2008/1282, 2009/56, 2011/2391, 2012/820 2013/620 and 2015/429.
(e) Regulation 2 has been amended by regulation 3 of S.I. 2008/740, paragraphs 137 and 138 of Schedule 2 to S.I. 2009/56 and regulation 3 of S.I. 2012/820.

“the internet services provided through the Construction Industry Scheme Online for Contractors(a) or PAYE Online for Agents(b) or the Electronic Data Interchange services provided through the Construction Industry Scheme Online for Contractors or PAYE Online for Agents or.”.

(3) In regulation 4 (monthly returns)(c) for paragraph (4) substitute—

“(4) The return must be transmitted electronically to the Commissioners for Her Majesty’s Revenue and Customs using an approved method of electronic communications unless paragraph (4A) or paragraph (4B) applies.

(4A) This paragraph applies to—

- (a) an individual who is a practising member of a religious society or order whose beliefs are incompatible with the use of electronic communications,
- (b) a partnership, if all the partners fall within sub-paragraph (a), and
- (c) a company if all the directors and the company fall within sub-paragraph (a).

(4B) Where—

- (a) a contractor is of the view that it is not reasonably practicable for returns to be transmitted electronically, and
- (b) it is the contractor which delivers the return (and not some other person on the contractor’s behalf)

HMRC may, by a specific direction, authorise that contractor to transmit the return by a method other than an approved method of electronic communications.”.

(4) In regulation 6 (verification etc of registration status of sub-contractor and nominee) after paragraph (2) insert—

“(2A) The information mentioned in paragraph (1) must be provided electronically using an approved method of electronic communications unless paragraph (2B) or paragraph (2C) applies.

(2B) This paragraph applies to—

- (a) an individual who is a practising member of a religious society or order whose beliefs are incompatible with the use of electronic communications,
- (b) a partnership, if all the partners fall within sub-paragraph (a), and
- (c) a company if all the directors and the company fall within sub-paragraph (a).

(2C) Where—

- (a) a contractor is of the view that it is not reasonably practicable for the information to be transmitted electronically, and
- (b) it is the contractor which provides the information (and not some other person on the contractor’s behalf),

HMRC may, by a specific direction, authorise that contractor to transmit the information by a method other than an approved method of electronic communication.”.

(5) In paragraphs (2) and (3) of regulation 28 (minimum turnover) for £200,000 substitute “£100,000”.

(6) In regulation 29(2)(d) (evidence prescribed to satisfy the turnover test) for “£200,000” substitute “£100,000”.

(7) In Table 3 in regulation 32 (exceptions from compliance obligations)(d)—

- (a) omit entries in columns 1 and 2 of that Table relating to—
 - (i) “obligation to pay income tax”,

(a) CIS Online can be accessed at <http://www.gov.uk/use-construction-industry-scheme-online>.

(b) PAYE Online can be accessed at <https://www.gov.uk/payee-online>.

(c) Regulation 4 has been amended by article 3(3) of S.I. 2011/2391 and regulation 2(2) of S.I. 2015/429.

(d) Table 3 has been amended by S.I. 2008/1282 and 2013/620.

- (ii) “obligation to submit a return under regulation 85 of the PAYE Regulations (annual return of other earnings) within the required period”,
 - (iii) “obligation to pay corporation tax for which the applicant or the company is liable”,
 - (iv) “obligations and requests referred to in paragraphs 4(1), 8(1) and 12(1) of Schedule 11 to the Act”, and
 - (v) obligation to make a payment under the Tax Acts or Taxes Management Act 1970, and
- (b) for the entry in column 2 in the entry “obligation to submit a self-assessment return within the required period” substitute “return is submitted no later than 28 days after the due date.”.

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Date Two of the Commissioners for Her Majesty’s Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Income Tax (Construction Industry Scheme) Regulations 2005 (S.I. 2005/2045) (“the principal Regulations”) make provision in relation to the construction industry scheme established by Chapter 3 of Part 3 of the Finance Act 2004 (c. 12). These Regulations amend the principal Regulations.

Regulation 2(2) amends the definition of “approved method of electronic communications” in regulation 2 of the principal Regulations to reflect that the internet service and the Electronic Data Interchange service provided through the Construction Industry Scheme Online are an approved method of electronic communications for contractors and that the internet service and the Electronic Data Interchange service provided through PAYE Online are an approved method of electronic communications for agents.

Regulation 2(3) amends regulation 4 of the principal Regulations to provide that the returns which that regulation requires a contractor to file, must be filed using an approved method of electronic communications except in two circumstances. These are where the contractor’s religious beliefs preclude the use of electronic communications (new paragraph (4A)) or where the contractor satisfies the Commissioners for Her Majesty’s Revenue and Customs (“HMRC”) that it is not practicable for the contractor to make the return using an approved method of electronic communications (new paragraph (4B)).

Regulation 2(4) amends regulation 6 of the principal Regulations which requires a contractor to verify whether a person to whom the contractor is making a payment under section 60 of the Finance Act 2004 is registered for gross payment status. Regulation 6 is amended to require a contractor to provide the information detailed in that regulation to HMRC by way of an approved method of electronic communication except in two circumstances. New regulation 6(2B) and new regulation 6(2C) set out the two exceptions to the general rule. These exceptions are identical to the exceptions to the electronic filing requirement in regulation 4.

Regulation 2(5) amends regulation 28 of the principal Regulations by reducing the amount specified for the purposes of paragraphs 7(1) and 11(1) of Schedule 11 to the Finance Act 2004. This amount relates to the minimum turnover test which firms and companies have to meet in order to be registered for gross payment status.

Regulation 2(6) makes a consequential amendment to regulation 29 of the principal Regulations to reflect the amendment to regulation 28.

Regulation 2(7) amends Table 3 in regulation 32 of the principal Regulations. These amendments reflect the amendments to the compliance test in paragraphs 4, 8 and 12 of Schedule 11 to the Finance Act 2004 which were made by the Income Tax (Construction Industry Scheme) (Amendment of Schedule 11 to the Finance Act 2004) Order 2016 (S.I. 2016/xxx). As a

consequence of the amendments by these instruments a contractor only needs to have complied with a limited number of obligations in the 12 month period ending with the date of application for gross payment status.