

## **EXPLANATORY MEMORANDUM TO**

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

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.

#### **2. Purpose of the instrument**

2.1 This instrument amends the Regulations which provide the operational detail of the Construction Industry Scheme (CIS)

2.2 A contractor has to file a monthly return of payments made to subcontractors. This instrument amends the regulation to require from April 2016 a contractor to file a return using an approved method of electronic communication. The exceptions are:

- where the contractor's religious beliefs preclude the use of electronic communication or
- it is not reasonably practicable for the contractor to make the return using an approved method of communication.

Contractors are also required to verify with HMRC the tax status of their subcontractors; whether tax should be deducted or they can be paid gross. This instrument amends the regulation that requires a contractor to verify whether a sub-contractor is registered for gross payment or not. From April 2017, a contractor must use an approved method of electronic communication except in the circumstances shown above.

The instrument also reduces the minimum turnover required by a partnership or company to gain gross payment status and the number of obligations under the Tax Acts that the contractor has to comply with in order to gain gross payment status.

#### **3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 There are no matters of special interest.

#### **4. Legislative Context**

4.1 Regulation 2(2) amends the definition of "approved method of electronic communications" in Regulation 2 of the principle Regulations to specify that it includes the CIS Online for Contractors arrangements and the Electronic data Interchange services provided through CIS Online.

- 4.2 Regulation 2(3) amends Regulation 4 of the principle Regulations to provide that the returns a contractor is required to file must be filed using an approved method of electronic communications except in the circumstances shown at paragraph 2.2 above.
- 4.3 Regulation 2(4) amends Regulation 6 of the principle Regulations to require a contractor to provide the information required to verify the tax status of a subcontractor to HMRC by way of an approved method of electronic communications except in the circumstances shown in paragraph 2.2 above.
- 4.4 Regulation 2(5) amends Regulation 28 of the principle Regulations which provides for the minimum turnover that firms and companies have to meet in order to be registered for gross payment status. The amount is reduced to £100,000.
- 4.5 Regulation 2(6) makes a consequential amendment to Regulation 29 of the principle Regulations to reflect the amendment to Regulation 28.
- 4.6 Regulation 2(7) amends the table 3 in Regulation 32 of the principle Regulations. This details the number of obligations under the Tax Acts that a contractor has to comply with to gain gross payment status. As a consequence an applicant needs only to have complied with a limited number of obligations in the 12 month period ending with the date of application for gross payment status.

## **5. Territorial Extent and Application**

- 5.1 This instrument applies to all of the United Kingdom

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- 7.1 The purpose of these measures is to reduce the costs on both businesses and HMRC by making the scheme simpler to administer. It will achieve this by moving more transactions online and simplifying the process for sub-contractors who wish to apply for and maintain gross payment status.
- 7.3 Gross payment status helps businesses improve their cash flow and reduces administrative burdens for both businesses and HMRC in claiming repayments after the end of the tax year.

## **Consolidation**

There are currently no plans to consolidate the instrument that is being amended.

## **8. Consultation outcome**

- 8.1 HMRC carried out a formal consultation between June and September 2014 on improving the Construction Industry Scheme.
- 8.2 A response document was published on 10 December 2014. A copy is available at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/384729/1049 - Improving CIS - responses summary final version v2.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384729/1049_-_Improving_CIS_-_responses_summary_final_version_v2.pdf)

## **9. Guidance**

- 9.1 Guidance on these changes will be available from March 2016.

## **10. Impact**

- 10.1 There will be no impact on charities or voluntary bodies.
- 10.2 There will be little impact on the public sector.
- 10.3 A Tax Information and Impact Note covering this instrument was published on 10 December 2014 and is available on the HMRC website at <https://www.gov.uk/government/publications/improving-the-operation-of-the-construction-industry-scheme>. This remains an accurate summary of the impacts that apply to this instrument.

## **11. Regulating small business**

- 11.1 This instrument will impact across all construction businesses including small businesses.

## **12. Monitoring & review**

- 12.1 HMRC will monitor the effectiveness of this instrument to ensure the Government objectives are met.

## **13. Contact**

Andy Thomas at HMRC Tel: 03000 589714 or email: [andy.thomas@hmrc.gsi.gov.uk](mailto:andy.thomas@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.

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