STATUTORY INSTRUMENTS

2010 No. 717

INCOME TAX

The Income Tax (Construction Industry Scheme) (Amendment) Regulations 2010

Made - - - -	*9th March 2010*
Laid before the House of Commons	*12th March 2010*
Coming into force - -	*6th April 2010*

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by section 205 of the Finance Act 2003(**a**) and section 71 of the Finance Act 2004(**b**) and now exercisable by them, make the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Income Tax (Construction Industry Scheme) (Amendment) Regulations 2010 and shall come into force on 6th April 2010.

(2) Regulation 5(b) shall apply only in relation to the tax year 2011-12 and subsequent tax years.

(3) The remaining provisions of these Regulations shall apply only in relation to the tax year 2010-11 and subsequent tax years.

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

2. The Income Tax (Construction Industry Scheme) Regulations 2005(**c**) are amended as follows.

Determination of amounts payable by contractor and appeal against determination

3. In regulation 13(5) (determination of amounts payable by contractor and appeal against determination) after "5" insert ", 5A".

Electronic communications

4. In regulation 38 (interpretation), in the definition of "specified payment", omit "made in the tax year to which the e-payment notice issued under regulation 199 of the PAYE Regulations relates (large employers required to make specified payments electronically)".

(**a**) 2003 c.14. Section 94(8)(b) of the Finance Act 2007 (c.11) amended section 205(1) so that the Commissioners for Her Majesty's Revenue and Customs have the power to make the Regulations.

(**b**) 2004 c.12. The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c.11). Section 50(1) of that Act provides that, in so far as it is appropriate in consequence of section 5, a reference to the Commissioners of Inland Revenue, however expressed, shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(**c**) S.I. 2005/2045, to which there are amendments not relevant to these Regulations.

Mandatory electronic payment

5. In regulation 45 (mandatory electronic payment)—

(a) for paragraph (1) substitute—

"(1) A contractor who is a large employer within the meaning of regulation 191 (large and medium sized employers) of the PAYE Regulations must pay the specified payment using an approved method of electronic communications.";

(b) in the paragraph (1) inserted by paragraph (1)(a) of this regulation, for the words "191 (large and medium sized employers)" substitute "198A (large employers)"; and

(c) after paragraph (3) insert—

"(4) A specified payment is not treated as received in full by Her Majesty's Revenue and Customs on or before the date by which that specified payment is required in accordance with regulation 7 unless it is made in a manner which secures (in a case where the specified payment is made otherwise than in cash) that, on or before that date, all transactions can be completed which need to be completed before the whole amount of the specified payment becomes available to the Commissioners for Her Majesty's Revenue and Customs.".

Revocations

6. Regulations 46 (contractor in default if specified payment not received by applicable due date) and 47 (default notice and appeal) are omitted.

Mike Eland
Bernadette Kenny
9th March 2010 Two of the Commissioners for Her Majesty's Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Income Tax (Construction Industry Scheme) Regulations 2005 (S.I. 2005/2045) ("the 2005 Regulations"), which make provisions in relation to the construction industry scheme established by Chapter 3 of Part 3 of the Finance Act 2004.

Regulation 13 of the 2005 Regulations provides that in certain circumstances an officer of Her Majesty's Revenue and Customs ("HMRC") may determine the amount which a contractor in the construction industry is liable to pay to HMRC. Regulation 3 of these Regulations provides that Part 5A of the Taxes Management Act 1970, which makes provision in relation to the payment of tax, applies in relation to such determinations.

These Regulations also make amendments to the 2005 Regulations as a consequence of amendments made to the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682) which alter the arrangements under which certain employers are required to make payments to HMRC using electronic means. The amendments in these Regulations ensure that the arrangements for electronic communications in respect of the construction industry scheme will remain consistent with those for Pay As You Earn generally.

A full Impact Assessment of the effect this instrument, apart from regulation 3, will have on the costs of business and the voluntary sector is available on the HMRC website and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

A full Impact Assessment has not been produced in relation to regulation 3 of this instrument as a negligible impact on the private or voluntary sector is foreseen.

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