STATUTORY INSTRUMENTS

2016 No. 348

INCOME TAX

CORPORATION TAX

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

Made - - - -	*11th March 2016*
Laid before the House of Commons	*14th March 2016*
Coming into force - -	*6th April 2016*

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sections 135 and 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) has 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 communications" after "means" insert—

"the internet services provided through the Construction Industry Scheme Online for

(**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. 2008/1282, 2011/2391, 2013/620 and 2015/429.
(**e**) Although regulation 2 has been amended none of the amendments is relevant to this instrument.

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 return)(**c**) for paragraph (4) substitute—

"(4) The return must be transmitted to the Commissioners for Her Majesty's Revenue and Customs using an approved method of electronic communications unless paragraph (4A) applies or where a direction has been given under paragraph (4B).

(4A) This paragraph applies where a contractor is—

(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), or

(c) a company if all the directors and the company secretary fall within sub-paragraph (a).

(4B) Where—

(a) a contractor considers that it is not reasonably practicable for that contractor to transmit the monthly returns using an approved method of electronic communications, and

(b) it is the contractor which delivers the return (and not some other person on the contractor's behalf),

the Commissioners for Her Majesty's Revenue and Customs 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 contractor must provide the information mentioned in paragraph (2) using an approved method of electronic communications unless paragraph (2B) applies or where a direction has been given under paragraph (2C).

(2B) This paragraph applies where a contractor is—

(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), or

(c) a company if all the directors and the company secretary fall within sub-paragraph (a).

(2C) Where—

(a) a contractor considers that it is not reasonably practicable for that contractor to provide the information using an approved method of electronic communications, and

(b) it is the contractor which provides the information (and not some other person on the contractor's behalf),

the Commissioners for Her Majesty's Revenue and Customs may, by a specific direction, authorise that contractor to provide the information by a method other than an approved method of electronic communications.".

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

(**a**) CIS Online can be accessed at https://www.gov.uk/use-construction-industry-scheme-online.
(**b**) PAYE Online can be accessed at https://www.gov.uk/paye-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.

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

(7) For Table 3 in regulation 32 (exceptions from compliance obligations)(**a**) substitute—

Table 3

"*1. Prescribed obligations*	*2. Prescribed circumstances*
Obligation to submit monthly contractor return within the required period.	(1) Return is submitted not later than 28 days after the due date and (2) the applicant or company has failed to comply with this obligation on not more than two occasions within the previous 12 months.
Obligation to pay— a) the amount liable to be deducted under section 61 of the Act from payments made during that tax period, or b*)* tax liable to be deducted under the PAYE Regulations	(1) Where the amount not paid by the due date is under £100, or (2) Where the amount not paid by the due date is at least £100— (a) the payment is made not later than 14 days after the due date and (b) the applicant or company has failed to comply with this obligation in respect of an amount of at least £100 on not more than two occasions within the previous 12 months.
Obligation to submit a self-assessment return within the required period	Return is submitted not later than 28 days after the due date."

Jim Harra
Jennie Granger

11th March 2016 — 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 specify the internet service and the Electronic Data Interchange service provided through the Construction Industry Scheme Online as approved methods of electronic communications for contractors and the internet service and the Electronic Data Interchange service provided through PAYE Online as approved methods of electronic communications for agents.

Regulation 2(3) replaces regulation 4(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)).

(**a**) Table 3 has been amended by regulation 2 of S.I. 2008/1282 and regulation 3 of S.I. 2013/620.

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. The contractors to whom new regulation 6(2B) and (2C) apply are identical to the contractors to whom new regulation 4(4A) or (4B) applies.

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) substitutes a new Table 3 in regulation 32 of the principal Regulations. This Table prescribes the circumstances in which a person will be treated as having met the condition in paragraph 4(1), 8(1) or 12(1) of Schedule 11 to the Finance Act 2004.

A Tax Information and Impact Notice covering this instrument was published on 10th December 2014 and is available at http://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins. It remains an accurate summary of the impacts that apply to this instrument.

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