
STATUTORY INSTRUMENTS

1993 No. 743

INCOME TAX

**The Income Tax (Sub-contractors in the
Construction Industry) Regulations 1993**

<i>Made</i>	- - - -	<i>16th March 1993</i>
<i>Laid before the House of Commons</i>	- - - -	<i>16th March 1993</i>
<i>Coming into force</i>	- -	<i>6th April 1993</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by sections 561(5), 562(3)(b), (5)(c) and (11), 563(3)(c) and (7) and 566 of the Income and Corporation Taxes Act 1988(1) and by section 98A(1) of the Taxes Management Act 1970(2), hereby make the following Regulations:

PART I
INTRODUCTORY

Citation and commencement

1.—(1) These Regulations may be cited as the Income Tax (Sub-contractors in the Construction Industry) Regulations 1993.

(2) These Regulations shall come into force on 6th April 1993 immediately after the Income Tax (Sub-contractors in the Construction Industry) (Amendment) Regulations 1993(3).

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the Board” means the Commissioners of Inland Revenue;

“business name” means any name or style under which any business is carried on by a firm or person;

(1) 1988 c. 1.

(2) 1970 c. 9; section 98A was inserted by section 165(1) of the Finance Act 1989 (c. 26).

(3) S.I. 1993/724.

“Class 4 contributions” means Class 4 contributions within the meaning of the Social Security Contributions and Benefits Act 1992(4) or, in Northern Ireland, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(5);

“contract payment” means any payment such as is mentioned in section 559;

“the Management Act” means the Taxes Management Act 1970(6);

“national insurance number” has the same meaning as in the Social Security (Contributions) Regulations 1979(7) or, in Northern Ireland, the Social Security (Contributions) Regulations (Northern Ireland) 1979(8);

“nominee” means any person, other than the sub-contractor, who is nominated to receive a contract payment and to whom such a payment is made;

“notice” means notice in writing;

“registration number”, in relation to a company, means the distinctive number assigned to a company by the Registrar of Companies on registration under the Companies Act 1985(9) or, in Northern Ireland, the Companies (Northern Ireland) Order 1986(10);

“section 559”, “section 561”, “section 562” and “section 563” mean sections 559, 561, 562 and 563 respectively of the Taxes Act(11);

“sub-contractor’s tax certificate” means a certificate under section 561;

“the Taxes Act” means the Income and Corporation Taxes Act 1988(1);

“user” means a person to whom a sub-contractor’s tax certificate which has not expired has been issued, and includes a person authorised to use such a certificate issued to a company under regulation 24(5).

(2) In these Regulations, unless the context otherwise requires, the following expressions have the same meaning as in Chapter IV of Part XIII of the Taxes Act—

“construction operations”

“contractor”

“sub-contractor”.

(3) In these Regulations, unless the context otherwise requires, the following expressions have the same meaning as in the Income Tax (Employments) Regulations 1993(12)—

“collector”

“earnings-related contributions”

“employee”

“income tax month”

“income tax period”

“income tax quarter”

“inspector”

“year”.

(4) 1992 c. 4.

(5) 1992 c. 7.

(6) 1970 c. 9.

(7) S.I. 1979/591.

(8) S.R. (N.I.) 1979 No. 186.

(9) 1985 c. 6.

(10) S.I. 1986/1032 (N.I. 6).

(11) Section 559 was amended by section 28 of the Finance Act 1988 (c. 39) and by S.I. 1989/2405 (N.I. 19).

(1) 1988 c. 1.

(12) S.I. 1993/744.

(4) The Table below indexes other general definitions in these Regulations:

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deduction certificate	7
voucher	29
weekly limit	26(2).

PART II

PAYMENTS TO SUB-CONTRACTORS TO WHICH SECTION 559 APPLIES

Interpretation of Part II

3. In this Part of these Regulations, the expression “payment to which section 559 applies” shall mean—

- (a) subject to sub-paragraph (b) below, a contract payment made to a person who is not excepted from that section; and
- (b) in relation to a user of a tax certificate in the form numbered 714S in Schedule 1 to these Regulations, any contract payment made to that user to the extent that the user is not excepted from that section in respect of that payment by reason of the weekly limit;

and related expressions shall be construed accordingly.

Multiple contractors

4.—(1) Where a contractor so elects, he shall be treated for all the purposes of this Part of these Regulations as if in respect of each group of sub-contractors specified in the election he were a different contractor, that is to say, as if each group of sub-contractors constituted all the sub-contractors to whom he makes payments to which section 559 applies.

(2) An election under this regulation must be made by notice to the inspector and any such notice shall contain—

- (a) such information as may be necessary to identify the groups of sub-contractors concerned, and
- (b) a certificate that the contractor makes no payment to which section 559 applies other than to sub-contractors in the groups so identified.

(3) Subject to paragraph (4), an election shall have effect for the year following that in which it is made and, unless revoked, shall also have effect for any subsequent year.

(4) Where a contractor acquires the whole or a part of the undertaking of another contractor and within 90 days of the acquisition elects under this regulation to be treated as a separate contractor in respect of the group of sub-contractors with whom he contracts for the purposes of the acquired undertaking and in respect of all other sub-contractors to whom he makes payments or, where an election is already in force in respect of them, each group of sub-contractors identified in the existing election, the new election shall have effect for the year in which the acquisition takes place and any subsequent year.

(5) An election in force for any year may be revoked by notice to the inspector and any such revocation shall have effect for the year following that in which notice of it is given and any subsequent year, but shall not prejudice the making of a fresh election for that following or any subsequent year.

Record of individual payment made and of amount deducted

5.—(1) On the making of any payment to which section 559 applies the contractor shall record, on a form provided or authorised by the Board, the particulars specified in paragraph (2) regarding that payment.

(2) The particulars specified in this paragraph are—

- (a) the name and address of the sub-contractor to whom, or to whose nominee, the payment is made,
- (b) if the payment is made to a nominee, the name and address of the nominee,
- (c) the date of the payment,
- (d) the amount of the payment before any deduction is made under section 559,
- (e) the amount, if any, included in the payment which the contractor has reason to be satisfied represents the direct cost to any person of materials used or to be used in carrying out the construction operations to which the contract under which the payment is made relates,
- (f) the amount from which section 559 requires a sum to be deducted, and
- (g) the amount so deducted.

First payment in year to user of form 714S

6. On the first occasion in any year on which a contractor makes a payment to which section 559 applies to a sub-contractor who is a user of a tax certificate in the form numbered 714S in Schedule 1 to these Regulations, the contractor shall record, on a form provided or authorised by the Board, that he has made such a payment.

Deduction certificate to be given to sub-contractor

7.—(1) Subject to paragraph (3), on the making of any payment to which section 559 applies, the contractor shall give to the sub-contractor a deduction certificate, on a form provided by the Board, giving the particulars specified in paragraph (2) and certifying those particulars.

(2) The particulars specified in this paragraph are—

- (a) the name and address of the sub-contractor to whom, or to whose nominee, the payment is made,
- (b) if the payment is made to a nominee, the name and address of the nominee,
- (c) the beginning and end of the period in respect of which the deduction certificate is given,
- (d) the amount of the payment before any deduction is made under section 559,
- (e) the amount, if any, included in the payment which the contractor has reason to be satisfied represents the direct cost to any person of materials used in carrying out the construction operations to which the contract under which the payment is made relates,
- (f) the amount from which section 559 requires a sum to be deducted, and
- (g) the amount so deducted.

(3) Where, under any one contract, the contractor makes more than one payment to the same sub-contractor, the contractor may, with the agreement of the sub-contractor, instead of giving one deduction certificate under this regulation in respect of each payment, give one deduction certificate in respect of all the payments made—

- (a) within one year; or
- (b) within such shorter period as the sub-contractor may request, being—

- (i) a period beginning at the beginning of a year and ending, if the last payment to be made under the contract has not then been made, on the sub-contractor's accounting date in that year, or
- (ii) a period beginning on the sub-contractor's accounting date in a year and ending, if the last payment to be made under the contract has not then been made, at the end of the year in which that date falls.

(4) On the giving of a deduction certificate referred to in paragraph (1), the contractor shall record the amount, if any, deducted from the payment under section 559, entered on the deduction certificate on the form referred to in regulation 5(1).

(5) In paragraph (3) above "the sub-contractor's accounting date", in relation to a year, means the date in that year to which the sub-contractor makes up the accounts of his business.

Monthly payment of amounts deducted to collector

8. Subject to regulations 9 and 13(11), the contractor shall pay to the collector within 14 days of the end of every income tax month all amounts which he was liable under section 559 to deduct from payments made by him during that income tax month.

Quarterly payment of amounts deducted to collector

9.—(1) Subject to regulation 13(11), where the contractor has reasonable grounds for believing that the condition specified in paragraph (2) applies and so chooses, he shall pay to the collector within 14 days of the end of every income tax quarter all amounts which he was liable under section 559 to deduct from payments made by him during that income tax quarter.

(2) The condition specified in this paragraph is that the average monthly total amount to be paid to the collector under—

- (a) the Income Tax (Employments) Regulations 1993,
- (b) the Social Security Contributions and Benefits Act 1992 and the Social Security (Contributions) Regulations 1979 or, in Northern Ireland, the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and the Social Security (Contributions) Regulations (Northern Ireland) 1979, and
- (c) regulation 8,

will be less than £450 for income tax months falling within the current year.

Payment of amounts deducted to collector—further provisions

10.—(1) The collector shall give a receipt to the contractor for the total amount paid under regulation 8 or 9, if so requested, but if a receipt is given for a total sum paid at the same time which includes that amount and also tax deducted under the Income Tax (Employments) Regulations 1993, or earnings related contributions, or both, then no separate receipt for the total amount so paid need be given.

(2) If the amount specified in regulation 8 or 9(1) which a contractor is liable to pay to the collector exceeds the amount, if any, actually deducted by him from payments made during the relevant income tax period but he satisfies the collector that he took reasonable care to comply with the provisions of section 559 and of these Regulations and that either—

- (a) the under-deduction or failure to make a deduction was due to an error made in good faith, or

- (b) in spite of such reasonable care as aforesaid, he had been led to the genuine belief that a payment made by him, which was one to which section 559 applies, was not or was not wholly such a payment,

then the collector may direct that the contractor shall not be liable to pay that excess to the collector.

(3) If the amount specified in regulation 8 or 9(1) which a contractor is liable to pay to the collector exceeds the amount, if any, actually deducted by him from payments made during the relevant income tax period but the inspector (whether or not an assessment under regulation 14 has been made) is satisfied that the person to whom the contractor made such payments either—

- (a) was not chargeable to income tax or corporation tax in respect of those payments, or
 (b) has made a return of his income or profits in accordance with section 8 or section 11 of the Management Act(13), in which those payments were taken into account, and paid the income tax and Class 4 contributions due or corporation tax due in respect of such income or profits,

then the inspector shall, if the contractor so requests, direct that the contractor shall not be liable to pay that excess (or any interest in respect of it) to the collector.

(4) If a contractor is aggrieved by the failure of a collector to make a direction under paragraph (2), he may, by notice to the collector, within 30 days after the date of a notice given after 19th April of a refusal by the collector to make such a direction, appeal to the General Commissioners against that refusal.

Return by contractor at end of year

11.—(1) The contractor shall render a return to the inspector or, if so required, to the collector, not later than 44 days after the end of the year, in such form as the Board may approve or prescribe, showing the particulars specified in paragraph (2) in respect of each sub-contractor.

(2) The particulars specified in this paragraph are—

- (a) the total amount of payments to which section 559 applies made by him to that sub-contractor (or to his nominee) during the year,
 (b) the total amount, if any, included in those payments which the contractor is satisfied represents the direct cost to any other person of materials used in carrying out the construction operations to which the contracts under which the payments were made related,
 (c) the total amount deducted from the payments mentioned in sub-paragraph (a) above under section 559,
 (d) the amounts in respect of which deduction certificates have been given to the sub-contractor under regulation 7, and
 (e) whether the sub-contractor has at any time in the year been the user of a tax certificate in the form numbered 714S in Schedule 1 to these Regulations.

(3) The return required by paragraph (1) shall include the statement and declaration specified in paragraph (4) and the certificate specified in paragraph (5).

(4) The statement and declaration specified in this paragraph is a statement and declaration, signed by the contractor, in the form approved or prescribed by the Board, containing a list of all

(13) Section 8 was substituted by section 90(1) of the Finance Act 1990 (c. 29); section 11 was amended by paragraph 5 of Schedule 24 to the Finance Act 1972 (c. 41), paragraph 8 of Schedule 7 to the Capital Gains Tax Act 1979 (c. 14), paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988, section 91(4) of the Finance Act 1990 and sub-paragraphs (1) and (2) of paragraph 2 of Schedule 10 to the Taxation of Chargeable Gains Act 1992 (c. 12), and (prospectively) by section 82 of the Finance (No. 2) Act 1987 (c. 51), paragraph 10(2) of Schedule 29 to the Income and Corporation Taxes Act 1988, and section 91(2), (3) and (5) to (7) of the Finance Act 1990.

sub-contractors to whom (or to whose nominee) the contractor, during the year, made any payments to which section 559 applies.

(5) The certificate specified in this paragraph is a certificate, signed by the contractor, showing the total amount deductible under section 559 in the case of each sub-contractor and the total of all such amounts.

(6) Where the contractor is a company, the statement and declaration specified in paragraph (4) and the certificate specified in paragraph (5) shall be signed either by the secretary or by a director of the company.

(7) If a contractor has failed to pay the total amount which he is liable under these Regulations to pay to the collector within 14 days of the end of any year, the collector may prepare a certificate showing the amount remaining unpaid for that year.

(8) Paragraphs (1) to (5) of regulation 19 shall apply to the amount shown on a certificate under paragraph (7) with the modification that summary proceedings for the recovery of that amount or such part of it as remains unpaid may be brought at any time before the expiry of—

(a) twelve months after the date limited for delivery of the statement specified in paragraph (4), or

(b) if that statement is not delivered by that date, the expiry of twelve months after its delivery.

(9) A certificate of the collector under paragraph (7) that the amount mentioned for that year has not been paid to him, or, to the best of his knowledge and belief, to any other collector, or to any person acting on his behalf or on behalf of another collector, shall be sufficient evidence that the sum mentioned in the certificate is unpaid and is due to the Crown.

(10) Any document purporting to be a certificate under paragraph (7) shall be deemed to be such a certificate until the contrary is proved.

(11) Section 98A of the Management Act shall apply to the provisions of this regulation requiring a return to be made.

Notice and certificate in case of contractor failing to pay amounts deducted to collector

12.—(1) This regulation applies where, within 14 days of the end of any income tax period, the contractor has paid no amount to the collector under regulation 8 or 9 for that income tax period, and the collector is unaware of the amount, if any, which the contractor is liable so to pay.

(2) Where this regulation applies, the collector may give notice to the contractor requiring him to render, within 14 days, a return in such form as the Board may prescribe showing the amount which the contractor is liable to pay to the collector under regulation 8 or 9 in respect of the income tax period in question.

(3) Where a notice given by the collector under paragraph (2) extends to two or more consecutive income tax periods, these Regulations shall have effect as if those consecutive income tax periods were one income tax period.

(4) The collector may give a notice under paragraph (2) notwithstanding that an amount has been paid to him by the contractor under regulation 8 or 9 for an income tax period, if he is not satisfied that the amount so paid is the full amount which the contractor is liable to pay to him for that period, and this regulation shall have effect accordingly.

(5) Upon receipt of a return made by a contractor under paragraph (2), the collector may prepare a certificate showing the amount which the contractor is liable to pay to him for the income tax period in question.

(6) Paragraphs (1) to (5) of regulation 19 shall apply to the amount shown in a certificate under paragraph (5).

(7) The production of the return made by the contractor under paragraph (2) and of the certificate of the collector under paragraph (5) shall be sufficient evidence that the amount shown in the certificate is the amount which the contractor is liable to pay to the collector in respect of the income tax period in question.

(8) Any document purporting to be a certificate under paragraph (5) shall be deemed to be such a certificate until the contrary is proved.

Notice of specified amount and certificate in case of contractor failing to pay amounts deducted to collector

13.—(1) This regulation applies where, after 14 days following the end of any income tax period, the contractor has paid no amount to the collector under regulation 8 or 9 for that income tax period, despite demand being made, and there is reason to believe that the contractor is liable so to pay.

(2) Where this regulation applies, the collector, upon consideration of the contractor's record of past payments may to the best of his judgment specify the amount which he considers the contractor is liable to pay, and serve notice on the contractor of that amount.

(3) Where the contractor has paid no amount under regulation 8 or 9 for the relevant income tax periods, the collector may give notice under paragraph (2) which extends to two or more consecutive income tax periods, and these Regulations shall have effect as if those income tax periods were the latest income tax period specified in the notice.

(4) The collector may give a notice under paragraph (2) notwithstanding that an amount has been paid to him by the contractor under regulation 8 or 9 for any income tax period, if he is not satisfied, after seeking the contractor's explanation, that the amount so paid is the full amount which the contractor is liable to pay to him for that income tax period, and this regulation shall have effect accordingly.

(5) If, during the period allowed in a notice given by the collector under paragraph (2), the contractor claims, but does not satisfy the collector, that the payment made in respect of the income tax period specified in the notice is the full amount he is liable to pay to the collector for that income tax period, then—

- (a) the contractor may require the collector to inspect the contractor's documents and records as if the collector had called upon the contractor to produce those documents in accordance with regulation 41(1); and
- (b) regulation 41 shall apply to that inspection, and the notice given by the collector under paragraph (2) shall be disregarded.

(6) Subject to paragraph (7), if the specified amount, or any part of it, is unpaid on the expiration of the period of seven days allowed in the notice, the amount so unpaid shall—

- (a) be certified by the collector, and
- (b) be deemed to be an amount which the contractor was liable to pay for that income tax period in accordance with regulation 8 or 9.

(7) Paragraph (6) shall not apply if, during the period allowed in the notice—

- (a) the contractor pays the full amount which he is liable to pay to the collector under regulation 8 or 9 for that income tax period, or
- (b) the contractor satisfies the collector that no amount, or no further amount is due for that income tax period.

(8) Paragraphs (1) to (5) of regulation 19 shall apply to the amount shown in a certificate under paragraph (6).

(9) The production of a certificate under paragraph (6) shall be sufficient evidence that the contractor is liable to pay the amount shown in the certificate to the collector.

(10) Any document purporting to be a certificate under paragraph (6) shall be deemed to be such a certificate until the contrary is proved.

(11) Notwithstanding anything in this regulation, if the contractor pays any amount certified by the collector under this regulation and that amount exceeds the amount which he would have been liable to pay in respect of that income tax period apart from this regulation, he shall be entitled to set off such excess against any amount which he is liable to pay to the collector under regulation 8 or 9 for any subsequent income tax period.

(12) If the contractor renders the return required by regulation 11 after the end of the year, and pays the total amount which he is liable to pay, any excess paid and not otherwise recovered by set-off in accordance with this regulation shall be repaid.

Formal determination of amounts payable by contractor

14.—(1) Where—

- (a) there is a dispute between a contractor and a sub-contractor as to the amount, if any, deductible by the contractor under section 559 from a payment to the sub-contractor or his nominee, or
- (b) the inspector has reason to believe, as a result of an inspection under regulation 41 or otherwise, that the amount which a contractor is liable to pay to the collector under these Regulations is greater than the amount, if any, which he has so paid, or
- (c) the inspector considers it necessary to do so in all the circumstances,

the inspector may make an assessment on the contractor in the amount which, according to the best of his judgment, the contractor is liable to pay under these Regulations.

(2) An assessment under paragraph (1) shall be subject to the like provisions as are contained in Parts IV, V and VI of the Management Act as if it were an assessment to income tax and as if the amount assessed were income tax charged on the contractor and the like provisions as are contained in those Parts of the Management Act shall apply accordingly with any necessary modifications, except that the amount charged by the assessment shall be due and payable 14 days after the assessment is made.

(3) Where there is a dispute such as is mentioned in sub-paragraph (a) of paragraph (1) and the inspector does not make an assessment on the contractor under that paragraph, either the contractor or the sub-contractor may, on giving notice to the inspector, apply to the General Commissioners to determine the matter.

(4) The like provisions as are contained in Part V of the Management Act shall apply, with the appropriate modifications, to an application under paragraph (3) as they apply to an appeal against an assessment.

(5) Where there is a dispute such as is mentioned in sub-paragraph (a) of paragraph (1)—

- (a) the contractor shall nevertheless make the deduction required by section 559 from the payment, or the part of the payment, to which the dispute relates, and the amount he so deducts shall be treated as a sum which he is liable to pay to the collector under these Regulations; and
- (b) any amount which, on a final determination of the dispute, is shown not to have been so payable shall be treated as an overpayment of income tax or corporation tax by the sub-contractor.

Interest on amounts overdue which have been formally determined

15.—(1) Where an amount is charged by an assessment made in the circumstances specified in paragraph (2), and becomes due and payable, the amount so due and payable shall carry interest at the prescribed rate from the reckonable date until payment.

(2) The circumstances specified in this paragraph are that the assessment is made—

- (a) by the inspector under regulation 14,
- (b) at any time after 19th April 1988, and
- (c) for a year not later than the year ended on 5th April 1992.

(3) Subject to paragraph (4), in this regulation “reckonable date” means the 14th day after the end of the year to which the assessment relates, and for the purposes of this regulation, where the assessment is made in respect of one or more income tax periods, that assessment shall relate to the year of which that period forms part.

(4) Where, at any time after 19th April 1988, an assessment such as is mentioned in paragraph (1) is made in the circumstances specified in paragraph (2), and that assessment relates to a year earlier than the year ended on 5th April 1988, then the amount due and payable under the assessment shall carry interest at the prescribed rate from the 19th April 1988 until payment and in those circumstances that date shall be the reckonable date.

(5) Interest payable under this regulation shall be recoverable as if it were an amount charged by an assessment made under regulation 14.

Interest on amounts overdue—general

16.—(1) Subject to paragraph (2), where in relation to the year ended on 5th April 1993 or any subsequent year, a contractor has not within 14 days after the end of a year paid to the collector the total amount which he is liable under these Regulations to pay, the amount remaining unpaid shall carry interest at the prescribed rate from the reckonable date until payment.

(2) Paragraph (1) shall not apply to any amount in respect of which a direction under regulation 10(2) or (3) has been made.

(3) In this regulation “the reckonable date” in relation to any year, means the 14th day after the end of that year.

(4) Interest payable under this regulation shall be recoverable as if it were an amount which a contractor is liable under regulation 8 or 9 to pay to the collector.

(5) A certificate of the collector that any amount of interest payable under this regulation has not been paid to him, or, to the best of his knowledge and belief, to any other collector or to any person acting on his behalf or on behalf of another collector, shall be sufficient evidence that the sum mentioned in the certificate is unpaid and due to the Crown.

(6) Any document purporting to be a certificate under paragraph (5) shall be deemed to be such a certificate until the contrary is proved.

Interest on amounts overdue—further provisions

17. In regulations 15 and 16 “the prescribed rate” means the rate applicable under section 178 of the Finance Act 1989(14) for the purposes of section 86 of the Management Act(15); and where that

(14) 1989 c. 26; section 178 was amended by section 17(10) of the Social Security Act 1990 (c. 27), paragraph 107 of Schedule 2 to the Social Security (Consequential Provisions) Act 1992 (c. 6), paragraph 19(4) of Schedule 10 to the Taxation of Chargeable Gains Act 1992 and paragraph 5 of Schedule 11 to the Finance (No. 2) Act 1992 (c. 48).

(15) Section 86 was substituted by section 46(1) of the Finance (No. 2) Act 1975 (c. 45); the section as substituted was amended by sections 61(3) and 62(1) and (2) of the Finance Act 1980 (c. 48), Part V of Schedule 16 to the Finance Act 1987 (c. 16), paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988, sections 156(1) and 179(1) of the Finance Act

rate changes on an operative date within the meaning given by regulation 2 of the Taxes (Interest Rate) Regulations 1989⁽¹⁶⁾ by virtue of those Regulations, the change shall have effect for periods beginning on or after the operative date in relation to interest running from before that date as well as from or from after that date.

(2) The amount payable to which regulation 15(1) or 16(1) applies shall carry interest from the reckonable date even if that date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882⁽¹⁷⁾.

Interest on amounts overpaid

18.—(1) Where an amount paid under these Regulations in respect of the year ended on 5th April 1993 or any subsequent year is repaid to a contractor in the circumstances specified in paragraph (2), the amount repaid shall carry interest at the prescribed rate from the relevant time until the order for the repayment is issued.

(2) The circumstances specified in this paragraph are where the amount is repaid—

- (a) after the end of the year following that in respect of which the amount was paid, and
- (b) after the end of the year in which the amount was paid.

(3) In this regulation “the prescribed rate” means the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 824 of the Taxes Act⁽¹⁸⁾; and where that rate changes on an operative date within the meaning given by regulation 2 of the Taxes (Interest Rate) Regulations 1989 by virtue of those Regulations, the change shall have effect for periods beginning on or after the operative date in relation to interest running from before that date as well as from or from after that date.

(4) In this regulation “the relevant time” means—

- (a) in the case of a repayment of an amount which was paid more than twelve months after the end of the year in respect of which the payment was made, the end of the year in which that amount was paid; and
- (b) in any other case, the end of the year after the year in respect of which the payment was made.

Recovery of amounts deducted

19.—(1) Subject to paragraph (3), the provisions of any enactment relating to the recovery of income tax charged by way of an assessment shall apply to the recovery of the amount specified in paragraph (2) as if that amount had been an amount of income tax charged by way of an assessment on the contractor.

(2) The amount specified in this paragraph is any amount which a contractor is liable under regulation 8 or 9 or is deemed liable under regulation 13 to pay to the collector for any income tax period, and which is not the subject of an assessment under regulation 14 (in this regulation referred to as “the specified amount”).

(3) Summary proceedings for the recovery of the specified amount may be brought in England, Wales and Northern Ireland at any time before the expiry of twelve months—

1989, section 73(4) and (5) of, and paragraph 1 of Schedule 15 to, the Finance Act 1991 (c. 31), sub-paragraphs (1) and (8) of paragraph 2 of Schedule 10 to the Taxation of Chargeable Gains Act 1992 and paragraph 3 of Schedule 11 to, and Part VII(8) of Schedule 18 to, the Finance (No. 2) Act 1992, and (prospectively) by section 86(2) of the Finance (No. 2) Act 1987 and section 158(1) of, and Part VIII of Schedule 17 to, the Finance Act 1989.

(16) S.I. 1989/1297, to which there are amendments not relevant to these Regulations.

(17) 1882 c. 61; section 92 was amended by sections 3(1) and 4(4) of the Banking and Financial Dealings Act 1971 (c. 80).

(18) Section 824 was amended by paragraph 7 of Schedule 13 to the Finance Act 1988, sections 110(5), 111(4), 158(2) and 179(1) of, and Parts IV, VIII and X of Schedule 17 to, the Finance Act 1989, and sub-paragraphs (1) and (52) of paragraph 14 of Schedule 10 to the Taxation of Chargeable Gains Act 1992.

- (a) after the date on which the specified amount became payable, or
- (b) where a return has been required under regulation 12, after the date of the delivery of that return to the collector.

(4) Proceedings may be brought for the recovery of the specified amount without distinguishing the amounts which the contractor is liable to pay in respect of each sub-contractor and without specifying the sub-contractors in question, and the specified amount shall be one cause of action or one matter of complaint for the purposes of proceedings under sections 65, 66, or 67 of the Management Act(19).

(5) Nothing in paragraph (4) shall prevent the bringing of separate proceedings for the recovery of each of the several amounts which the contractor is liable to pay for any income tax period in respect of his several sub-contractors.

(6) A certificate of the collector that the specified amount has not been paid to him, or, to the best of his knowledge and belief, to any other collector, or to any person acting on his behalf or on behalf of another collector, shall be sufficient evidence that the sum mentioned in the certificate is unpaid and is due to the Crown.

(7) Any document purporting to be a certificate under paragraph (6) shall be deemed to be such a certificate until the contrary is proved.

Repayment of excess credit

20.—(1) If the inspector is satisfied, by the production to him of a deduction certificate issued to a sub-contractor under regulation 7 and by such further evidence as he may require, that the total of the sums deducted under section 559 from payments made in any year (or, in the case of a sub-contractor which is a company liable to corporation tax, in any accounting period) to that sub-contractor exceeds the aggregate of the amounts specified in paragraph (2), the sub-contractor shall be entitled to repayment of the excess by the inspector.

(2) The amounts specified in this paragraph are—

- (a) the income tax and any Class 4 contributions or, as the case may be, corporation tax payable (whether or not yet due and payable) by that sub-contractor for that year or accounting period on the profits or gains of the trade, profession or vocation of the sub-contractor; and
- (b) any income tax and any Class 4 contributions or, as the case may be, corporation tax remaining unpaid for any other year or accounting period on the profits or gains of the trade, profession or vocation of the sub-contractor.

(3) An appeal may be brought against a decision of the inspector under paragraph (1), and the like provisions as are contained in section 42 of the Management Act(20) shall apply to such an appeal as it applies to an appeal against a decision on a claim.

(19) Section 65 was amended by section 57(1) of the Finance Act 1984 (c. 43) and by S.I. 1989/1300 and 1991/1625; section 66 was amended by paragraph 36 of Schedule 2 to the County Courts Act 1984 (c. 28), section 57(2) of the Finance Act 1984 and by S.I. 1980/397 (N.I. 3) and S.I. 1991/724; section 67 was amended by section 58 of, and Part III of Schedule 15 to, the Finance Act 1976 (c. 40).

(20) Section 42 was amended by paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988 and (prospectively) by section 97 of the Finance Act 1990.

PART III

SUB-CONTRACTOR'S TAX CERTIFICATES, VOUCHERS AND GUARANTEES

Powers of inspectors

21. The power to issue, renew, require the surrender of or cancel a sub-contractor's tax certificate or to give directions under subsection (6) of section 561 may be exercised by an inspector.

Absence abroad—evidence of living outside the United Kingdom

22.—(1) Where—

- (a) an applicant must satisfy the Board for the purposes of section 562, or
- (b) a partner must satisfy the Board for the purposes of section 563,

that he has been outside the United Kingdom for the whole or part of the period in question, the evidence by which he is so to satisfy the Board shall be the evidence prescribed in paragraphs (2) and (3).

(2) Subject to paragraph (3), where the person in question claims to have been employed or self-employed outside the United Kingdom during any part of the period in question, the evidence shall be any document from the Revenue Department or equivalent department of the country in which he claims to have been living which confirms his presence there throughout that part of the period in question.

(3) Where the person in question claims—

- (a) not to have been employed or self-employed while outside the United Kingdom during any part of the period in question, or
- (b) to have been employed or self-employed outside the United Kingdom during any part of the period in question but not to have been liable to tax in the country in which he claims to have been living during that part of the period in question,

the evidence shall be any document from the Social Security Department or equivalent department, or from the immigration authorities, or from any other Government department of the country in which he claims to have been living which confirms his presence there throughout that part of the period in question.

(4) In this regulation and in regulation 23—

“applicant” has the same meaning as in section 562;

“the period in question” means the period between the ending of a period of three years throughout which the person in question has been employed (as mentioned in subsection (3) of section 562 and subsection (2) of section 563) and the date of his application for a sub-contractor's tax certificate.

“the person in question” means an applicant referred to in paragraph (1) (a) or a partner referred to in paragraph (1) (b).

Absence abroad—evidence of compliance with tax obligations

23.—(1) Where—

- (a) an applicant must satisfy the Board for the purposes of section 562, or
- (b) a partner must satisfy the Board for the purposes of section 563,

that he has complied with any obligations imposed under the tax laws of any country in which he was living during the period in question which are comparable to the obligations mentioned in

the relevant subsection, the evidence by which he is so to satisfy the Board shall be the evidence prescribed in paragraph (2).

(2) The evidence shall be such notices or documents issued by the Revenue Department or equivalent department of the country in which the person in question claims to have been living as confirm that the obligations have been complied with.

(3) in this regulation “the relevant subsection” means—

- (a) in the case of an applicant, subsection (8) of section 562, or
- (b) in case of a partner, subsection (5) of section 563.

Forms of sub-contractor’s tax certificate

24.—(1) A sub-contractor’s tax certificate shall be prepared by the Board in one of the forms numbered 714I, 714S, 714P and 714C in Schedule 1 to these Regulations.

(2) Where such a certificate is issued to an individual otherwise than as a partner in a firm or as a user of a certificate in the form numbered 714S in Schedule 1, it shall be in the form numbered 714I in Schedule 1; and the certificate shall show—

- (a) the individual’s name,
- (b) his national insurance number,
- (c) his usual signature,
- (d) a full face photograph, being a true likeness of him,
- (e) the date from which the certificate is valid,
- (f) the date of its expiry,
- (g) the distinctive number assigned to it, and
- (h) where the individual so wishes, one business name under which his business is carried on.

(3) Where such a certificate is issued to an individual to whom subsection (4) of section 561 applies, it shall be in the form numbered 714S in Schedule 1 and shall refer to the special conditions under which it is issued; and the certificate shall also show—

- (a) the individual’s name,
- (b) his national insurance number,
- (c) his usual signature,
- (d) a full face photograph, being a true likeness of him,
- (e) the date from which the certificate is valid,
- (f) the date of its expiry,
- (g) the distinctive number assigned to it, and
- (h) where the individual so wishes, one business name under which his business is carried on.

(4) Where such a certificate is issued to an individual as a partner in a firm, it shall be in the form numbered 714P in Schedule 1; and the certificate shall show—

- (a) the individual’s name,
- (b) his national insurance number,
- (c) his usual signature,
- (d) a full face photograph, being a true likeness of him,
- (e) the date from which the certificate is valid,
- (f) the date of its expiry,

- (g) the distinctive number assigned to it, and
 - (h) the words “Acting for”,
 - (j) the name of the firm, and
 - (k) subject to paragraph (8), and where the individual so wishes, one business name under which the firm’s business is carried on.
- (5) Subject to paragraph (6), where such a certificate is issued to a company (and more than one such certificate may be issued to a company), it shall be in the form numbered 714P in Schedule 1; and the certificate shall show—
- (a) the name of the secretary or director of the company who is authorised to use the certificate,
 - (b) his usual signature,
 - (c) a full face photograph, being a true likeness of him,
 - (d) the date from which the certificate is valid,
 - (e) the date of its expiry,
 - (f) the distinctive number assigned to it,
 - (g) the words “Acting for”,
 - (h) the name of the company,
 - (j) the registration number of the company, and
 - (k) subject to paragraph (8), and where the secretary or director of the company so wishes, one business name under which the company’s business is carried on.
- (6) If in any case the inspector considers that in all the circumstances the form of certificate mentioned in paragraph (5) would be inappropriate, he may issue a certificate to the company in the form numbered 714C in Schedule 1 showing the words “For a company not required to use subcontractor’s vouchers”; and the certificate shall also show—
- (a) the usual signature of the secretary of the company at the date of issue,
 - (b) the word “Original”,
 - (c) the date from which the certificate is valid,
 - (d) the date of its expiry,
 - (e) the distinctive number assigned to it,
 - (f) the name of the company,
 - (g) the registration number of the company, and
 - (h) where the secretary of the company so wishes, one business name under which the company’s business is carried on.
- (7) Where an inspector has issued a certificate under paragraph (6), he may also issue one or more additional certificates to the company and each such additional certificate shall be in the form numbered 714C in Schedule 1; and each certificate shall—
- (a) have its own additional distinctive serial number, and
 - (b) show the particulars mentioned in paragraph (6), except that there shall be substituted for the word “Original” the words “Official Copy”.
- (8) Where a certificate mentioned in paragraph (4) or (5) shows one business name under which the firm’s or company’s business is carried on, that business name shall also appear on all other certificates issued to the firm or company under section 561 and currently in force.

Issue of sub-contractor's tax certificate

25.—(1) A sub-contractor's tax certificate in the form specified in regulation 24(2), (3) or (4) shall be issued by an inspector to the person whose name, national insurance number and photograph appear on it, and that person shall sign it immediately on receipt.

(2) A sub-contractor's tax certificate in the form specified in regulation 24(5) shall be issued by an inspector to the company whose name and registered number appear on it, and the secretary or director of the company who is authorised to use the certificate shall sign it immediately on receipt.

(3) A sub-contractor's tax certificate in the form specified in regulation 24(6) or (7) shall be issued by an inspector to the company whose name and registered number appear on it, and the secretary of the company shall sign it immediately on receipt.

Validity of sub-contractor's tax certificate

26.—(1) Subject to paragraph (2), a sub-contractor's tax certificate shall be valid, during the period specified in paragraph (3), for the purpose of allowing payments to be made to the user without the deduction required by section 559 and for no other purpose.

(2) A user of a sub-contractor's tax certificate in the form numbered 714S as specified in regulation 24(3) shall not be excepted from the provisions of section 559 to the extent that the amount of a contract payment, or the aggregate amount of that payment and any other such payment or payments made in one week, whether from the same or any other contractor or contractors, exceeds the weekly limit, being £150 in any week.

(3) The period specified in this paragraph is—

- (a) in the case of a certificate issued before 1st October 1990, the period from the date of its issue, or
- (b) in the case of a certificate issued on or after 1st October 1990, the period on and after the first day of the month and the calendar year which are shown on it as the date from which it is valid,

until the last day of the month and the calendar year which are shown on it as the date of expiry.

Renewal of sub-contractor's tax certificate

27.—(1) At any time within a period of six months before the date of expiry of a sub-contractor's tax certificate, the person to whom it was issued may apply for its renewal.

(2) The provisions of section 561 shall apply to an application for renewal in the same way as they apply to an application for the issue of a sub-contractor's tax certificate.

(3) The provisions of the Taxes Act and of these Regulations shall apply to a renewed certificate in the same way as they apply to a sub-contractor's tax certificate.

Production for inspection and surrender of sub-contractor's tax certificate

28.—(1) A user shall produce his sub-contractor's tax certificate for inspection whenever called upon by any authorised officer of the Board.

(2) A user or any person having a sub-contractor's tax certificate in his possession, even though it may have expired or been cancelled, may be required at any time by notice served upon him or whenever called upon him by any authorised officer of the Board to surrender it to them or to that officer.

Form of voucher

29.—(1) A voucher shall be in the form numbered 715 or 715S in Schedule 1 and shall show a distinctive number and the further information specified in paragraphs (2) and (3).

(2) The further information specified in this paragraph is—

- (a) in the case of an individual, the name and national insurance number of the user,
- (b) in the case of an individual who is a partner in a firm, the name and national insurance number of the user, the words “Acting for” and the name of the firm, and
- (c) in the case of a company, the name of the secretary or director of the company, the words “Acting for” and the name and registration number of the company.

(3) The further information specified in this paragraph is that the voucher in the form numbered 715S shall also show the weekly limit.

Restriction on issue of further vouchers in certain circumstances

30.—(1) If it appears to the inspector that the user of a sub-contractor’s tax certificate in the form 714S has used vouchers previously issued to him to obtain contract payments in excess of the weekly limit without the deduction required by section 559, the inspector may prevent any further vouchers from being issued to that user until such time as the amount produced by the calculation specified in paragraph (2) falls below the weekly limit.

(2) The calculation specified in this paragraph is—

$$\frac{A + B}{C}$$

where—

A is the sum of all contract payments insofar as made without the deduction required by section 559 since the date of the previous issue of vouchers as mentioned in paragraph (1) above;

B is any sums included in A representing the direct cost to any person of materials used or to be used in carrying out the construction operations to which the relevant contracts relate; and

C is the number of weeks which have elapsed since the date of the previous issue of vouchers as mentioned in paragraph (1) above.

Surrender of voucher

31. A user or any person having a voucher in his possession may be required at any time by notice served upon him or whenever called upon by any authorised officer of the Board to surrender it to them or to that officer.

Guarantees

32. Any guarantee such as is referred to in subsection (3)(b) of section 562 shall be in such form and for such amount or amounts as are prescribed in Schedule 2 to these Regulations, and the guarantor shall be a bank carrying on a genuine banking business in the United Kingdom.

PART IV

PAYMENTS TO SUB-CONTRACTORS USING SUB-CONTRACTOR'S TAX CERTIFICATES

Production and verification of sub-contractor's tax certificate

33.—(1) On making a contract payment to a sub-contractor using a sub-contractor's tax certificate, and unless the circumstances specified either in regulation 34(2) or in paragraph (5) below apply, the contractor shall—

- (a) satisfy himself of the matters specified in paragraph (2); and
- (b) ensure that the sub-contractor's tax certificate is produced to him by a person (in this regulation referred to as "the person in question") in accordance with paragraphs (3) and (4);

and if the requirements of this paragraph are not complied with, section 559 shall apply to any contract payments made as though the sub-contractor were not excepted from it.

(2) The matters specified in this paragraph are that the contractor shall satisfy himself by inspection of the certificate that the person in question is—

- (a) the user of the certificate, where it is in one of the forms specified in paragraphs (2), (3), (4) or (5) of regulation 24; or
- (b) authorised to produce the certificate on behalf of the company which is the user of that certificate, where it is in one of the forms specified in paragraphs (6) or (7) of regulation 24.

(3) Subject to paragraph (4), for the purposes of paragraph (2) above, the person in question shall produce his sub-contractor's tax certificate (or, where sub-paragraph (b) of paragraph (2) above applies, one of the company's certificates) for inspection by the contractor or the contractor's authorised representative; and, if he fails to do so, section 559 shall apply as though he, or the company of which he is a director or the secretary, were not excepted from it.

(4) Where the user receives a payment as a nominee, the person who nominated the user shall also produce his sub-contractor's tax certificate for such inspection; and, if he fails to do so, section 559 shall apply to that payment as though neither the nominee nor the person who nominated him were excepted from it.

(5) The circumstances specified in this paragraph are that the contractor has—

- (a) previously satisfied himself of the matters specified in paragraph (2), and
- (b) has no reason to doubt that the certificate is still valid.

Alternative procedure for verification of sub-contractor's tax certificate held by company

34.—(1) Where the circumstances specified in paragraph (2) are satisfied, a user specified in paragraph (3) shall give the document specified in paragraph (4) (in this regulation referred to as "the certification document") to the contractor.

(2) The circumstances specified in this paragraph (and which were referred to in regulation 33(1)) are that—

- (a) the contract payment is made to a company, not being a nominee,
- (b) the payment is due under a contract made in writing between the contractor and the company,
- (c) the company has produced the certification document to the contractor,
- (d) subject to paragraph (5), the contractor has no reason to doubt that the information shown on the certification document is correct,

- (e) the date of payment is—
 - (i) not earlier than the date, if any, shown in the certification document as that from which the certificate is valid, and
 - (ii) not later than the date of expiry shown in the certification document, and
- (f) the payment is made into a bank account held in the name of the company and specified in the certification document (in this regulation referred to as “the nominated account”).
- (3) A user specified in this paragraph is a user which—
 - (a) is a company other than a nominee, and
 - (b) has notified the inspector of particulars identifying the nominated account.
- (4) The certification document specified in this paragraph is a document signed by the secretary or one of the directors of the company—
 - (a) certifying that the company is the user of a valid sub-contractor’s tax certificate in the form specified in paragraph (6) of regulation 24, and
 - (b) specifying—
 - (i) the name of the user,
 - (ii) the address of the registered office of the user,
 - (iii) the registration number of the user,
 - (iv) the distinctive number of the sub-contractor’s tax certificate,
 - (v) the date, if any, from which the certificate is valid,
 - (vi) the date of expiry of the certificate,
 - (vii) particulars identifying the nominated account, and
 - (viii) where the user so wishes, the business name or names under which the company’s business is carried on.
- (5) If the contractor has reason to doubt that the information shown on the certification document is correct, he may, within 14 days of the date of receipt of the certification document from the company, apply to the inspector for confirmation that—
 - (a) a valid sub-contractor’s tax certificate has been issued in the name of the person to whom the payment is to be made; and
 - (b) the information shown on the certification document agrees with the record held by the inspector;

and, on receipt of such confirmation, the contractor shall have no reason to doubt that the information shown on the certification document is correct.

Delivery of voucher by sub-contractor who is an individual or a partner in a firm

- 35.—**(1) This regulation applies where—
- (a) a sub-contractor’s tax certificate is issued in one of the forms specified in paragraph (2) or (4) of regulation 24, and
 - (b) a contract payment is made to the user of that certificate without the deduction imposed by section 559.
- (2) Where this regulation applies, a user shall, for every contract payment made to him, give a voucher in the form numbered 715 in Schedule 1, completed and signed by him in accordance with regulation 38, to the contractor upon or not later than seven days after receipt of any such payment.
- (3) A contractor shall make every effort reasonable in the circumstances to obtain such a voucher in respect of every such payment made to him.

Delivery of voucher by sub-contractor to whom section 561(4) of the Taxes Act applies

36.—(1) This regulation applies where a sub-contractor's tax certificate is issued in the form specified in paragraph (3) of regulation 24.

(2) Where this regulation applies, a user shall, for every contract payment made to him to the extent that it does not exceed the weekly limit, give a voucher in the form numbered 715S in Schedule 1, completed and signed by him in accordance with regulation 38, to the contractor before receiving any such payment.

(3) A contractor shall not make such a payment unless he obtains such a voucher at the time of making the payment.

(4) If the user of such a sub-contractor's tax certificate fails to give such a voucher, section 559 shall apply in relation to any such payment as if he were not excepted from it.

Delivery of voucher by sub-contractor which is a company

37.—(1) This regulation applies where—

- (a) a sub-contractor's tax certificate is issued in the form specified in paragraph (5) of regulation 24, and
- (b) a contract payment is made to the company without the deduction imposed by section 559.

(2) Where this regulation applies, a user who is a director or the secretary of the company shall, for every contract payment made to the company, give a voucher in the form numbered 715 in Schedule 1, completed and signed by him in accordance with regulation 38, to the contractor upon or not later than seven days after receipt of any such payment.

(3) A contractor shall make every effort reasonable in the circumstances to obtain such a voucher in respect of every such payment made by him.

Completion and signature of voucher

38. A voucher referred to in regulation 35, 36 or 37 shall be—

- (a) completed by the user by the insertion of—
 - (i) his business address,
 - (ii) the distinctive number of his sub-contractor's tax certificate,
 - (iii) the name of the contractor,
 - (iv) the date on which the voucher is given,
 - (v) the amount of the payment, and
 - (vi) in the case of a voucher in the form numbered 715S in Schedule 1, such other details relating to the payment as are required on the voucher; and
- (b) signed by the user on the date the voucher is given.

Return of vouchers

39. Within 14 days of the end of every income tax month a contractor shall forward all vouchers given to and obtained by him in accordance with regulations 35 to 37 to the Board at an address specified by them.

Return of payments made without deduction to be made and records of such payments to be kept

40.—(1) If required to do so by any authorised officer of the Board, a contractor shall make and deliver to that officer a return containing the information specified in paragraph (2).

(2) Subject to paragraph (3), the information specified in this paragraph is—

- (a) a list of all persons, or as the case may be, such persons as may be specified by the officer, excepted from section 559 to whom (or to whose nominee) he made any contract payment during any such period as may be specified by that officer;
- (b) the total amount paid to each of those persons in that period in relation to which they were excepted from section 559; and
- (c) full particulars of the evidence by reference to which the contractor satisfied himself that each of those persons was excepted from section 559.

(3) A period specified under paragraph (2) shall begin not earlier than three years before the beginning of the year in which the requirement is made.

(4) A contractor shall make and keep such records as will enable him to comply with the requirement specified in paragraph (1) above.

PART V

SUPPLEMENTAL

Inspection of records of contractors and sub-contractors

41.—(1) Every contractor, whenever called upon to do so by an authorised officer of the Board, shall produce the records specified in paragraph (2) to that officer for inspection, at such time as that officer may reasonably require, at the prescribed place.

(2) The records specified in this paragraph are—

- (a) all documents and records whatsoever (including vouchers given to the contractor under regulations 35 to 37)—
 - (i) relating to the calculation or payment of all sums paid to sub-contractors (or their nominees) in the years or income tax periods specified by such officer or to deductions from such sums where required under section 559; or
 - (ii) referred to in regulation 40; or
- (b) such of those documents, records and vouchers as may be specified by the authorised officer.

(3) Every person who is or has within the preceding three years been a sub-contractor and who is not the user of a sub-contractor's tax certificate other than a certificate in the form numbered 714S in Schedule 1, whenever called upon to do so by any authorised officer of the Board, shall produce the records specified in paragraph (4) to that officer for inspection, at such time as that officer may reasonably require, at the prescribed place.

(4) The records specified in this paragraph are—

- (a) all documents and records relating to the calculation or payment of sums paid to him pursuant to any contract or contracts under which he is or was a sub-contractor within the preceding three years; or
- (b) such of those documents and records as may be specified by the authorised officer.

(5) “The prescribed place” mentioned in paragraphs (1) and (3) means—

- (a) such place in the United Kingdom as the contractor or the person mentioned in paragraph (3) (hereafter in this regulation called “the sub-contractor”) and the authorised officer may agree upon; or
 - (b) in default of such agreement, the place in the United Kingdom at which the documents and records mentioned in paragraphs (2) and (4) are normally kept; or
 - (c) in default of such agreement and if there is no such place as is referred to in sub-paragraph (b) above, the contractor’s or the sub-contractor’s principal place of business in the United Kingdom.
- (6) The authorised officer may—
- (a) take copies of, or make extracts from, any document produced to him for inspection in accordance with paragraphs (1) to (4);
 - (b) remove any document so produced if it appears to him to be necessary to do so, at a reasonable time and for a reasonable period.
- (7) Where any document is removed in accordance with paragraph (6)(b) the authorised officer shall provide—
- (a) a receipt for any document so removed; and
 - (b) a copy of the document, free of charge, within seven days to the person by whom it was produced or caused to be produced where the document is reasonably required for the proper conduct of a business.
- (8) Where a lien is claimed on a document produced in accordance with paragraphs (1) to (4), the removal of the document under paragraph (6)(b) shall not be regarded as breaking the lien.
- (9) Where records are maintained by computer, the person required to make them available for inspection shall provide the authorised officer with all facilities necessary for obtaining information from them.
- (10) By reference to information obtained from an inspection of the documents and records produced under paragraphs (1) to (4), the collector may, on the occasion of each inspection, prepare a certificate showing—
- (a) the amount which it appears from the documents and records so produced that the contractor is liable to pay to the collector under these Regulations for the years or income tax periods covered by the inspection; and
 - (b) any amount which has not been paid to him or, to the best of his knowledge and belief, to any other collector, or to any person acting on his behalf or on behalf of another collector.
- (11) Paragraphs (1) to (5) of regulation 19 shall apply to the amount shown in a certificate under paragraph (10), with the modification that summary proceedings for the recovery of that amount, or such part of it as remains unpaid, may be brought at any time before the expiry of twelve months after the date of the certificate.
- (12) The production of a certificate under paragraph (10) shall be sufficient evidence that the contractor is liable to pay the amount shown in the certificate under paragraph (10)(b) to the collector in respect of the years or income tax periods mentioned in the certificate.
- (13) Any document purporting to be a certificate under paragraph (10) shall be deemed to be such a certificate until the contrary is proved.
- (14) For the purposes of paragraphs (1) to (4), such of the documents and records mentioned in those paragraphs as are not required by other provisions of these Regulations to be sent to the inspector or collector shall be retained by the contractor or the sub-contractor, as the case may be, for not less than three years after the end of the year to which they relate.

Information as to change in control of close company

42.—(1) This regulation applies to a company which—

- (a) is a close company;
- (b) is a private company limited by shares; and
- (c) either holds a certificate in force under section 561 or has applied for such a certificate.

(2) Where there is a change in the control of the company by reason of an issue or transfer of shares in the company to a person who was not a shareholder in the company immediately before the issue or transfer, the company shall, within 30 days of the issue or of receiving information as to the transfer, give notice to the inspector of the name and address of the person to whom the shares were issued or transferred.

(3) In this regulation “control” has the same meaning as in section 840 of the Taxes Act.

Death of contractor

43. — If a contractor dies, anything which he would have been liable to do under these Regulations shall be done by his personal representatives.

Service by post

44. Any notice which is authorised or required to be given, served or issued under these Regulations may be sent by post.

Revocations

45.—(1) The Regulations specified in Schedule 3 to these Regulations are hereby revoked.

(2) A voucher in the form 715 or 715S in the Schedule to the Income Tax (Sub-Contractors in the Construction Industry) Regulations 1975(21) (“the 1975 Regulations”) which was valid for the purposes of the 1975 Regulations immediately before the coming into force of these Regulations shall have effect as if it was a voucher in the form 715 or 715S, as the case may be, in Schedule 1 to these Regulations, and accordingly, unless the context otherwise requires, references to a voucher in these Regulations shall be construed as including references to a voucher in the form 715 or 715S in the Schedule to the 1975 Regulations.

General savings

46.—(1) In relation to the collection and recovery (whether by assessment or otherwise) of sums required, under the Income Tax (Sub-Contractors in the Construction Industry) Regulations 1975(21), to be deducted from any payments under section 559 made before 6th April 1993, these Regulations shall have effect as if those sums had been liable to be deducted under these Regulations, and accordingly references to any provision of these Regulations shall, where the context so requires, be construed as references to the corresponding provision of the Income Tax (Sub-Contractors in the Construction Industry) Regulations 1975.

(2) Anything whatsoever begun under any regulation revoked by these Regulations may be continued under these Regulations as if begun under these Regulations.

(21) S.I. 1975/1960, amended by S.I. 1980/1135, 1982/1391, 1984/1857 and 2008, 1985/351, 1986/1240, 1988/636, 1989/1290, 1990/61, 1991/1081 and 1992/1065.

(21) S.I. 1975/1960, amended by S.I. 1980/1135, 1982/1391, 1984/1857 and 2008, 1985/351, 1986/1240, 1988/636, 1989/1290, 1990/61, 1991/1081 and 1992/1065.

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16th March 1993

L J H Beighton
C W Corlett
Two of the Commissioners of Inland Revenue


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SCHEDULE 1

Regulations 24, 29

FORMS OF SUB-CONTRACTOR'S TAX CERTIFICATES AND VOUCHERS
Form 714I

Face

Sub-contractor's Tax Certificate			
<i>Space for photograph of user</i>	Valid From <i>[Space for date]</i>	Expires and <i>[Space for date]</i>	
Certificate no:			
<i>[Space for distinctive no. of certificate]</i>			
Authorised user:			
<i>[Space for name and national insurance number of user and where appropriate the words "trading as" (abbreviated where necessary to "T/A") and one business name]</i>			714I


Reverse

Inland Revenue Property	
<i>Signature of Authorised User</i>	
<i>[Space for signature of user]</i>	
This certificate may be used only by the authorised user in conjunction with sub-contractor's vouchers issued to him. It must be surrendered on demand by the Inland Revenue. If found please hand in at any Police Station or Income Tax Office.	
Any person involved in the misuse of this certificate is liable to prosecution	
714I	

Form 714S

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Face

Sub-contractor's Special Tax Certificate for use only with and subject to the limit shown on special vouchers - forms 715S			
<i>Space for photograph of user</i>	Valid From [<i>Space for date</i>]	Expires end [<i>Space for date</i>]	
Certificate no:			
[<i>Space for distinctive no. of certificate</i>]			
Authorised user:			
[<i>Space for name and national insurance number of user and where appropriate the words "trading as" (abbreviated where necessary to "T/A") and one business name</i>]			714S


Reverse

Inland Revenue Property	
<i>Signature of Authorised User</i>	
[<i>Space for signature of user</i>]	
This certificate may be used only by the authorised user in conjunction with sub-contractor's vouchers (715S) issued to him. It must be surrendered on demand by the Inland Revenue. If found please hand in at any Police Station or Income Tax Office.	
Any person involved in the misuse of this certificate is liable to prosecution	
714S	

Form 714P

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Face

Sub-contractor's Tax Certificate			
<i>Space for photograph of user</i>	Valid From <i>[Space for date]</i>	Expires end <i>[Space for date]</i>	
Certificate no:			
<i>[Space for distinctive no. of certificate]</i>			
Authorised user:			
<i>[Space for name and national insurance number of individual who is a partner, the words "Acting for" and the name of the firm and where appropriate the words "trading as" (abbreviated where necessary to "T/A") and one business name of the firm or the name of the secretary or director of the company, the words "Acting for" and the name and registration no. of the company and where appropriate the words "trading as" (abbreviated where necessary to "T/A"); and one business name of the company]</i>			
			714P


Reverse

Inland Revenue Property	
<i>Signature of Authorised User</i>	
<i>[Space for signature of user]</i>	
This certificate may be used only by the authorised user in conjunction with sub-contractor's vouchers issued to him. It must be surrendered on demand by the Inland Revenue. If found please hand in at any Police Station or Income Tax Office.	
Any person involved in the misuse of this certificate is liable to prosecution	
714P	

Form 714C

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Face

Sub-contractor's Tax Certificate		
<p>[Space for the word "Original" or the words "Official Copy" and an additional distinctive serial number]</p> <p>Certificate no:</p> <p>[Space for distinctive no. of certificate]</p> <p>Issued to:</p> <p>[Space for name of company and where appropriate the words "trading as" (abbreviated where necessary to "T/A") and one business name of the company] 714C</p>	<p>For a company not required to use sub-contractor's vouchers</p> <p>Valid From [Space for date] Expires end [Space for date]</p> <p>Company registration no:</p> <p>[Space for registration number of company]</p>	


Reverse

<p>Inland Revenue Property</p> <p><i>Signature of Company Secretary</i></p> <p>[Space for signature of Company Secretary]</p> <p>This certificate may be used only by the Company named on it. It must be surrendered on demand by the Inland Revenue. If found please hand in at any Police Station or Income Tax Office.</p> <p>Any person involved in the misuse of this certificate is liable to prosecution</p> <p style="text-align: right;">714C</p>

Form 715

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

FACE

	INLAND REVENUE Sub-Contractor's Voucher	715
	1. [Space for the name and National Insurance number of the user in the case of an individual and additionally the words "Acting for" and the name of the firm in the case of an individual who is a partner in a firm and, in the case of a company, the name of the secretary or director of the company, the words "Acting for" and the name and registration number of the company.]	
of (business address)		
holder of certificate no:	hereby certify that I have produced	
that certificate to:		
..... and		
complete this voucher, no: [Space for distinctive number]		
	Day Month Year	
on this day (in figures)		
in respect of a gross Pounds Pence	Amount in words—POUNDS ONLY	
payment due to me of		
(in figures)		
Signature		

REVERSE

INLAND REVENUE PROPERTY


CONDITIONS

No one other than the authorised user may use this form; he may use it only while he is the authorised user of a valid sub-contractor's tax certificate. The authorised user, or in the case of a company the named company, is responsible for the safe custody of this form which must be surrendered on demand to the Inland Revenue.

ANY PERSON INVOLVED IN THE MISUSE OF THIS FORM IS LIABLE TO PROSECUTION

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FACE

	INLAND REVENUE	£(Space for limit) limit	714S
	Sub-Contractor's Special Voucher		
1. (Space for the name and National Insurance number of the user)			
of (business address)			
holder of special certificate no:	hereby certify that I have produced that special certificate to:		
complete this voucher, no: (Space for distinctive number)			
on this day (in figures)	Day	Month	Year
	in respect of a GROSS payment due to me (in figures)	Pounds	Pence
	LESS cost of materials	}	}
	SUB TOTAL		
	Amount paid in full on this voucher (maximum £		
	Balance paid under deduction of tax		
Signature			

REVERSE

INLAND REVENUE PROPERTY

CONDITIONS

No one other than the authorised user may use this form: he may use it only while he is the authorised user of a valid sub-contractor's tax certificate 714S. The authorised user is responsible for the safe custody of this form which must be surrendered on demand to the Inland Revenue.

ANY PERSON INVOLVED WITH THE MISUSE OF THIS FORM IS LIABLE TO PROSECUTION

SCHEDULE 2

Regulation 32

FORMS OF GUARANTEE

The form of guarantee prescribed by this Schedule shall be one of the following as appropriate.

Guarantee (in English form)

THIS GUARANTEE is made the day of

BETWEEN [a Bank]
whose registered office is situated at
(hereinafter called "the Guarantor") of the first part [the Sub-contractor] whose private address is
is
(hereinafter called "the Applicant") of the second part and THE COMMISSIONERS OF
INLAND REVENUE (on behalf of Her Majesty the Queen) of Somerset
House Strand London WC2R 1LB (hereinafter called "the Commissioners" which
expression shall include the Commissioners for the time being and their successors in office) of
the third part

WHEREAS

A. The Applicant has made application to the Commissioners for a certificate entitling him under section 561(4) and (5) Income and Corporation Taxes Act 1988 to limited exception from deductions required by section 559 of that Act.

B. The Commissioners have agreed to issue such a certificate provided that in connection with the Applicant's taxation obligations for the period of validity for which the said certificate is issued a Guarantee is executed in a form prescribed by the Commissioners before such a certificate is issued.

NOW THIS DEED WITNESSETH as follows

1. The Applicant empowers the Commissioners to disclose to the Guarantor any information about his taxation affairs which may be relevant to the making or operation of this Guarantee.
2. The Applicant undertakes to comply with all obligations imposed on him by the Taxes Acts (within the meaning of section 118 Taxes Management Act 1970) in respect of all years of assessment within any part of which the said certificate is, at the time of issue, expressed to be valid.
3. The Applicant undertakes to notify both the Guarantor and the Commissioners of any change in his private or business address.
4. If in the opinion of the Commissioners the Applicant fails to carry out the undertakings referred to in paragraphs 2 and 3 hereof, and in particular if in their opinion he has made default for more than 30 days in the payment of any tax in respect of the profits arising from his business as a self-employed sub-contractor in the construction industry for any of the years of assessment referred to in paragraph 2 hereof the Commissioners may notify the Guarantor in writing, giving details of the failure or default and setting out a statement of sums which according to the evidence at their disposal have been paid without the deduction referred to in section 559 Income and Corporation Taxes Act 1988 by virtue of the limited exception to the said deduction given by the said certificate, and demanding payment of the amount which would otherwise have been deducted from those payments under the said section 559, or such lesser amount as may seem to them appropriate provided that no such notice shall be given more than three years from the date on which the said certificate is expressed to expire.
5. The Guarantor hereby covenants that on receipt of any notice from the Commissioners under paragraph 4 hereof the Guarantor will pay the sum demanded to the Commissioners at the expiration of 7 days after such demand, provided always that the total liability of the Guarantor in respect of all such payments as demanded in respect of this Guarantee shall not exceed £2,500 for each year of the period of validity for which the said certificate is issued.

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6. Any sums paid under this Guarantee shall be treated by the Commissioners for all purposes as payments on account of the taxation liabilities of the Applicant; provided that any sums repayable out of such payments shall be paid, without further authorisation, to the Guarantor, and any such repayments shall reduce the amount paid under this Guarantee.
7. If at any time before the expiration of the period of three years following the date on which the said certificate is expressed to expire it appears to the Commissioners that there are no sums payable or likely to become payable under the Guarantee the Commissioners may inform the Guarantor and the Applicant accordingly and the Guarantor shall thereupon be released from his obligations under this Guarantee.
8. The liability of the Guarantor under this Guarantee shall not be impaired or discharged by reason of any time or other indulgence granted by the Commissioners or by reason of any arrangement entered into or composition accepted by the Commissioners modifying (by operation of law or otherwise) their rights and remedies in respect of the said tax or taxes or by any other act, omission or thing whatsoever whereby the Guarantor as surety or Guarantor only would have been so released or the liability of the Guarantor impaired.
9. The costs of engrossing the Guarantee and any duplicate thereof shall be paid by the Applicant.

IN WITNESS whereof

Guarantee (in Scottish form),

GUARANTEE

between

[a Bank]

whose registered office is situated at

(hereinafter called "the Guarantor")

[the Sub-contractor] residing at

(hereinafter called "the Applicant") and

THE COMMISSIONERS OF INLAND REVENUE (on behalf of Her Majesty the Queen) of Somerset House Strand London WC2R 1LB (hereinafter called "the Commissioners" which expression shall include the Commissioners for the time being and their successors in office).

WHEREAS the Applicant has made application to the Commissioners for a certificate entitling him under section 561(4) and (5) Income and Corporation Taxes Act 1988 to limited exception from deductions required by section 559 of that Act AND WHEREAS the Commissioners have agreed to issue such a certificate provided that in connection with the Applicant's taxation obligations for the period of validity for which the said certificate is issued a Guarantee is executed in a form prescribed by the Commissioners before such a certificate is issued THEREFORE IT IS AGREED between the parties hereto as follows:

1. The Applicant empowers the Commissioners to disclose to the Guarantor any information about his taxation affairs which may be relevant to the making or operation of this Guarantee.
2. The Applicant undertakes to comply with all obligations imposed on him by the Taxes Acts (within the meaning of section 118 Taxes Management Act 1970) in respect of all years of assessment within any part of which the said certificate is, at the time of issue, expressed to be valid.
3. The Applicant undertakes to notify both the Guarantor and the Commissioners of any change in his private or business address.
4. If in the opinion of the Commissioners the Applicant fails to carry out the undertakings referred to in paragraphs 2 and 3 hereof, and in particular if in their opinion he has made default for more than 30 days in the payment of any tax in respect of the profits arising from his business as a self-employed sub-contractor in the construction industry for any of the years of assessment referred to in paragraph 2 hereof, the Commissioners may notify the Guarantor in writing, giving details of the failure or default and setting out a statement of sums which according to the evidence at their disposal have been paid without the deduction referred to in section 559 Income and Corporation Taxes Act 1988 by virtue of the limited exception to the said deduction given by the said certificate, and demanding payment of the amount which would otherwise have been deducted from those payments

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under the said section 559, or such lesser amount as may seem to them appropriate provided that no such notice shall be given more than three years from the date on which the said certificate is expressed to expire.

5. The Guarantor hereby undertakes that on receipt of any notice from the Commissioners under paragraph 4 hereof the Guarantor will pay the sum demanded to the Commissioners at the expiration of 7 days after such demand, provided always that the total liability of the Guarantor in respect of all such payments as demanded in respect of this Guarantee shall not exceed £2,500 for each year of the period of validity for which the said certificate is issued.
6. Any sums paid under this Guarantee shall be treated by the Commissioners for all purposes as payments on account of the taxation liabilities of the Applicant; provided that any sums repayable out of such payments shall be paid, without further authorisation, to the Guarantor, and any such repayments shall reduce the amount paid under this Guarantee.
7. If any time before the expiration of the period of three years following the date on which the said certificate is expressed to expire it appears to the Commissioners that there are no sums payable or likely to become payable under the Guarantee the Commissioners may inform the Guarantor and the Applicant accordingly and the Guarantor shall thereupon be released from his obligations under this Guarantee.
8. The liability of the Guarantor under this Guarantee shall not be impaired or discharged by reason of any time or other indulgence granted by the Commissioners or by reason of any arrangement entered into or composition accepted by the Commissioners modifying (by operation of law or otherwise) their rights and remedies in respect of the said tax or taxes or by any other act, omission or thing whatsoever whereby the Guarantor as surety or Guarantor only would have been so released or the liability of the Guarantor impaired.
9. The expenses of engraving the Guarantee and any duplicate thereof shall be paid by the Applicant.

IN WITNESS WHEREOF

SCHEDULE 3

Regulation 45

REVOCATIONS

Regulations revoked	References
The Income Tax (Sub-Contractors in the Construction Industry) Regulations 1975.	S.I. 1975/1960.
The Income Tax (Sub-contractors in the Construction Industry) Regulations 1980.	S.I. 1980/1135.
The Income Tax (Sub-contractors in the Construction Industry) Regulations 1982.	S.I. 1982/1391.
The Income Tax (Sub-contractors in the Construction Industry) Regulations 1984.	S.I. 1984/1857.
The Income Tax (Sub-contractors in the Construction Industry) (No. 2) Regulations 1984.	S.I. 1984/2008.
The Income Tax (Sub-contractors in the Construction Industry) Regulations 1985.	S.I. 1985/351.

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Regulations revoked	References
The Income Tax (Sub-contractors in the Construction Industry) Regulations 1986.	S.I. 1986/1240.
The Income Tax (Sub-Contractors in the Construction Industry) Regulations 1988.	S.I. 1988/636.
The Income Tax (Sub-Contractors in the Construction Industry) (Amendment) Regulations 1989.	S.I. 1989/1290.
The Income Tax (Sub-Contractors in the Construction Industry) (Amendment) Regulations 1990.	S.I. 1990/61.
The Income Tax (Sub-contractors in the Construction Industry) (Amendment) Regulations 1991.	S.I. 1991/1081.
The Income Tax (Sub-contractors in the Construction Industry) (Amendment) Regulations 1992.	S.I. 1992/1065.
The Income Tax (Sub-contractors in the Construction Industry) (Amendment) Regulations 1993.	S.I. 1993/724.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate the Regulations relating to sub-contractors in the construction industry. In addition to minor and drafting amendments, they make the following changes of substance:—

- (1) The particulars to be contained in a deduction certificate are set out in detail (regulation 7(2));
- (2) Regulation 12 contains provisions relating to a certificate under that regulation for use in connection with proceedings for recovery (regulation 12(5) to (8));
- (3) Where records are maintained by computer, the person required to make them available for inspection shall provide facilities for obtaining information from them (regulation 41(9)).