



Finance (No. 2) Act 1975

1975 CHAPTER 45

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER II

SUB-CONTRACTORS IN THE CONSTRUCTION INDUSTRY

69 Deductions on account of tax etc. from payments to certain sub-contractors in construction industry

- (1) Where a contract relating to construction operations is not a contract of employment, but—
- (a) one party to the contract is a sub-contractor (as defined in subsection (2) below); and
 - (b) another party to the contract (in this section referred to as "the contractor") either is a sub-contractor under another such contract relating to all or any of the construction operations or is a person to whom this paragraph applies,
- this section shall apply to any payments which on or after the appointed day are made under the contract and are so made by the contractor to—
- (i) the sub-contractor;
 - (ii) a person nominated by the sub-contractor or the contractor; or
 - (iii) a person nominated by a person who is a sub-contractor under another such contract relating to all or any of the construction operations,

unless the person to whom the payments are made or, if the payments are made to a nominee, each of the following persons, that is to say, the nominee, the person who nominated him and the person for whose labour (or, where that person is a company, for whose employees' or officers' labour) the payment is made, is excepted from this section in relation to those payments by virtue of section 70 of this Act.

Status: This is the original version (as it was originally enacted).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

- (2) A party to a contract relating to construction operations is a sub-contractor if, under the contract.—
- (a) he is under a duty to the contractor to carry out the operations, or to furnish his own labour (that is to say, in the case of a company, the labour of employees or officers of the company) or the labour of others in the carrying out of the operations or to arrange for the labour of others to be furnished in the carrying out of the operations ; or
 - (b) he is answerable to the contractor for the carrying out of the operations by others, whether under a contract or under other arrangements made or to be made by him.
- (3) Paragraph (b) of subsection (1) above applies to the following persons, that is to say.—
- (a) any person carrying on a business which includes construction operations;
 - (b) any local authority ;
 - (c) any development corporation or new town commission ;
 - (d) the Commission for the New Towns ;
 - (e) the Housing Corporation, a housing association, a housing trust, a housing society, the Scottish Special Housing Association, the Northern Ireland Housing Trust and the Northern Ireland Housing Executive.
- (4) On making a payment to which this section applies the contractor shall deduct from it a sum equal to 35 per cent, of so much of the payment as is not shown to represent the direct cost to any other 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; and the sum so deducted shall be paid to the Board and shall be treated for the purposes of income tax or, as the case may be, corporation tax—
- (a) as not diminishing the payment; but
 - (b) subject to subsection (5) below, as being income tax or, as the case may be, corporation tax paid in respect of the profits or gains of the trade, profession or vocation of the person for whose (or for whose employees' or officers') labour the contractor makes the payment.
- (5) Where a sum deducted and paid to the Board under subsection (4) above is more than sufficient to discharge the liability to income tax of the person referred to in paragraph (b) of that subsection in respect of the profits or gains mentioned in that paragraph, so much of the excess as is required to discharge any liability of that person for Class 4 contributions shall be treated as being, for the purposes of the Social Security Act, Class 4 contributions paid in respect of the profits or gains so mentioned.
- (6) The Board shall make regulations with respect to the collection and recovery, whether by assessment or otherwise, of sums required to be deducted from any payments under this section and for the giving of receipts by persons receiving the payments to persons making them; and those regulations may include any matters with respect to which regulations may be made under section 204 (pay as you earn) of the Taxes Act.
- (7) References in the preferential payments provisions to sums due on account of tax deductions for any period shall be construed as including references to any amounts due from any person in respect of deductions required to be made by him under this section.
- (8) In section 98 of the Taxes Management Act 1970 (penalty for failure to furnish information, etc.) the following shall be added in the second column of the Table:—

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

“Regulations under section 69 of the Finance (No. 2) Act 1975”.

- (9) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (10) In this section "Class 4 contributions" means Class 4 contributions within the meaning of the Social Security Act 1975 or, as the case may be, the Social Security (Northern Ireland) Act 1975 ; and " the Social Security Act" means whichever of those Acts is the one under which the contribution in question is payable.