



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XIII

MISCELLANEOUS SPECIAL PROVISIONS

CHAPTER IV

SUB-CONTRACTORS IN THE CONSTRUCTION INDUSTRY

559 Deductions on account of tax etc. from payments to certain sub-contractors.

- (1) ^{M1}Subject to [^{F1}the following provisions of this section], where a contract relating to construction operations is not a contract of employment but—
- (a) one party to the contract is a sub-contractor; and
 - (b) another party to the contract (“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 section 560(2) applies,

this section shall apply to any payments which 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.

[^{F2}(1A) Subsection (1) above shall not apply to any payment made under the contract in question that is chargeable to income tax under Schedule E by virtue of section 134(1).]

- (2) Subsection (1) above shall not apply to any payment made under the contract in question if the person to whom it is made or, if it is 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 561.

Status: Point in time view as at 16/06/1999. This version of this provision has been superseded.

Changes to legislation: Income and Corporation Taxes Act 1988, Section 559 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(3) ^{F3}

[^{F4}(3A) Subsection (1) above shall not apply to a payment made under any contract if such conditions as may be prescribed in regulations made by the Board are satisfied in relation to the payment and the person making it.]

(4) ^{M2}On making a payment to which this section applies the contractor shall deduct from it a sum equal to [^{F5}the relevant percentage] 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 to be 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 [^{F6}profits] of the trade, profession or vocation of the person for whose (or for whose employees' or officers') labour the contractor makes the payment.

[^{F7}(4A) In subsection (4) above “the relevant percentage”, in relation to a payment, means such percentage (not exceeding the percentage which is the basic rate for the year of assessment in which the payment is made) as the Treasury may by order determine.]

(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 [^{F6}profits] 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 [^{F6}profits] so mentioned.

[^{F8}(5A) Notwithstanding anything in the preceding provisions of this section, the requirement to make a deduction under subsection (4) above shall have effect for the purposes of section 829 (application of Income Tax Acts to public departments) as if the whole of any deduction required to be made in pursuance of that subsection were in all cases a deduction of income tax.]

[^{F9}(6) ^{M3}References in section 1(1) of the Preferential Payments (Bankruptcies and Arrangements) Act (Northern Ireland) 1964 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].

(7) ^{M4}For the purposes of this Chapter a payment (including a payment by way of loan) that has the effect of discharging an obligation under a contract relating to construction operations shall be taken to be made under the contract; and if—

- (a) the obligation is to make a payment to a person within subsection (1)(i) to (iii) above, but
- (b) the payment discharging that obligation is made to a person not within those paragraphs,

the payment shall for those purposes be taken to be made to the first-mentioned person.

(8) ^{M5}In this section—

“Class 4 contributions” means Class 4 contributions within the meaning of the ^{M6}Social Security Act 1975 or, as the case may be, the ^{M7}Social Security (Northern Ireland) Act 1975; and

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“the Social Security Act” means whichever of those Acts is the one under which the contribution in question is payable.

Textual Amendments

- F1** Words in s. 559(1) substituted (with effect in accordance with s. 55(3) of the amending Act) by Finance Act 1998 (c. 36), s. 55(2)
- F2** S. 559(1A) inserted (with effect in accordance with s. 55(3) of the amending Act) by Finance Act 1998 (c. 36), s. 55(2)
- F3** S. 559(3) repealed (with effect in accordance with Sch. 29 Pt. 8(21) Notes 1, 5 of the repealing Act) by Finance Act 1995 (c. 4), Sch. 27 para. 1(2), Sch. 29 Pt. 8(21); S.I. 1998/2620, art. 3
- F4** S. 559(3A) inserted (with effect in accordance with Sch. 27 para. 1(4) of the amending Act) by Finance Act 1995 (c. 4), Sch. 27 para. 1(3); S.I. 1998/2620, art. 3
- F5** Words in s. 559(4) substituted (with effect in accordance with the amending provision) by Finance Act 1995 (c. 4), s. 139(1); S.I. 2000/922, art. 2
- F6** Words in s. 559(4)(b)(5) substituted (31.7.1998) by Finance Act 1998 (c. 36), s. 46(3)(a), Sch. 7 para. 1
- F7** S. 559(4A) inserted (with effect in accordance with the amending provision) by Finance Act 1995 (c. 4), s. 139(1); S.I. 2000/922, art. 2
- F8** S. 559(5A) inserted (with effect in accordance with Sch. 8 para. 2(3) of the amending Act) by Finance Act 1998 (c. 36), Sch. 8 para. 2(1)
- F9** S. 559(6) repealed (N.I.) (1.10.1991) by S.I. 1989/2404, art. 382, Sch. 10; S.R. 1991/411, art. 2

Modifications etc. (not altering text)

- C1** See—1970(M) s.62(1A)—*priority of claim for tax.* 1970(M) s.63(3)—*recovery of tax in Scotland.* 1970(M) s.64(1A)—*priority in cases of poinding in Scotland.*
- C2** See 1988(F) s.130(7)(d)—*payment of outstanding tax by migrating companies.*
- C3** S. 559(4) modified (29.4.1996) by Finance Act 1996 (c. 8), s. 72(3)
- C4** S. 559(4) modified (19.3.1997) by Finance Act 1997 (c. 16), s. 54(5)
- C5** See Insolvency (Northern Ireland) Order 1989, Art.381(2)and Sch.9 para.61and Art.382and Sch.10 (S.I. 1989 No.2405—not reproduced)

Marginal Citations

- M1** Source-1975 (No.2) s.69(1), 70A(2); 1982 Sch.8 5
- M2** Source-1975 (No.2) s.69(4), (5); 1987 s.23
- M3** Source-1975 (No.2) Sch.12 Pt.I 2(2); 1980 Sch.8 4(3); 1982 Sch.8 8
- M4** Source-1972 s.71(5); 1982 Sch.8 6
- M5** Source-1975 (No.2) s.69(10)
- M6** 1975 c. 14.
- M7** 1975 c. 15.

Status:

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