

Status: Point in time view as at 27/07/1999.

Changes to legislation: Finance Act 1998, SCHEDULE 8 is up to date with all changes known to be in force on or before 13 June 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)

SCHEDULES

SCHEDULE 8

Section 57.

SUB-CONTRACTORS IN THE CONSTRUCTION INDUSTRY

Introductory

- 1 Chapter IV of Part XIII of the Taxes Act 1988 shall be amended in accordance with paragraphs 2 to 6 below.

Application of deductions to public departments etc

- 2 (1) In section 559, after subsection (5) (excess of deduction from payment to sub-contractors to be treated as deduction for the purposes of the social security legislation) there shall be inserted the following subsection—
- “(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.”
- (2) In subsection (2) of section 560 (persons who are contractors) after “applies” there shall be inserted “ (subject to subsection (2A) below) ”; and after that subsection there shall be inserted the following subsections—
- “(2A) Subject to subsection (2B) below, subsection (2) above does not apply at any time to an office, department or body falling within paragraph (aa), (b), (c), (d), (e) or (ea) of that subsection unless that office, department or body has, in the period of three years ending with the 31st March next before that time, had an average annual expenditure on construction operations of more than £1,000,000.
- (2B) Where the condition provided for in subsection (2A) above has been satisfied in the case of any office, department or body in relation to any period of three years, that subsection shall not prevent subsection (2) above from applying to that office, department or body until there have been three successive years after the end of that period in each of which the office, department or body has had expenditure on construction operations of less than £1,000,000.”
- (3) This paragraph has effect in relation to any payments made on or after the day, or first day, that is appointed under subsection (3) of section 139 of the ^{M1}Finance Act 1995 (commencement of changes to sub-contractors scheme) for the purposes of paragraph 2 of Schedule 27 to that Act (additional public bodies etc that may be contractors).

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- (4) The reference in subsection (2B) of section 560 of the Taxes Act 1988 to a period of three years in relation to which the condition provided for in subsection (2A) of that section has been satisfied does not include a reference to any such period ending more than a year before the day or, as the case may be, first day mentioned in subparagraph (3) above.

Marginal Citations

M1 1995 c. 4.

Conditions for exemption of partnerships

- [^{F13} (1) In subsection (2A) of section 564 (certificates for partnerships), for the words from “that” to the end there shall be substituted
- (a) the receipt, annually in the period to which the certificate would relate, of an aggregate amount by way of relevant payments which is not less than the sum specified in subsection (2B) below; or
 - (b) the receipt, annually in the period to which the certificate would relate, of an aggregate amount by way of construction contract payments which is not less than the amount specified for the purposes of this paragraph in regulations made by the Board.”
- (2) After that subsection there shall be inserted the following subsection—
- “(2AA) In subsection (2A)(a) above “relevant payments” has the meaning given by section 562(2B).”
- (3) After subsection (2B) of that section there shall be inserted the following subsection—
- “(2C) In subsection (2A)(b) above “construction contract payments” means payments under contracts relating to, or to the work of individuals participating in the carrying out of, any operations which—
- (a) are of a description specified in subsection (2) of section 567; but
 - (b) are not of a description specified in subsection (3) of that section, other than so much of the payments as represents the direct cost to the firm of materials used or to be used in carrying out the operations in question.”]

Textual Amendments

F1 Sch. 8 para. 3 repealed (27.7.1999 with effect as mentioned in s. 53(3) of the amending Act) by 1999 c. 16, s. 139, Sch. 20 Pt. III(11), Note

Conditions of exemption for companies

- [^{F24} (1) For subsections (2A) and (2B) of section 565 (certificates for companies) there shall be substituted the following subsections—
- “(2A) The company must either—
- (a) satisfy the Board, by such evidence as may be prescribed in regulations made by them, that the annual receipts test is satisfied; or

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- (b) satisfy the Board that the only persons with shares in the company are companies which are limited by shares and themselves excepted from section 559 by virtue of a certificate which is in force under section 561.
- (2B) The annual receipts test is satisfied in relation to a company if the carrying on of its business is likely to involve the receipt, annually in the period to which the certificate would relate—
- (a) of an aggregate amount by way of relevant payments which is not less than the amount obtained by multiplying the amount specified in regulations as the minimum turnover for the purposes of section 562(2A) by the number of persons who are relevant persons in relation to the company; or
 - (b) of an aggregate amount by way of construction contract payments which is not less than the amount specified for the purposes of this paragraph in regulations made by the Board.
- (2BB) In subsection (2B) above “relevant payments” has the meaning given by section 562(2B).”
- (2) After subsection (2C) of that section there shall be inserted the following subsection—
- “(2D) In subsection (2B) above “construction contract payments” means payments under contracts relating to, or to the work of individuals participating in the carrying out of, any operations which—
- (a) are of a description specified in subsection (2) of section 567; but
 - (b) are not of a description specified in subsection (3) of that section, other than so much of the payments as represents the direct cost to the company of materials used or to be used in carrying out the operations in question.”]

Textual Amendments

- F2** Sch. 8 para. 4 repealed (27.7.1999 with effect as mentioned in s. 53(3) of the amending Act) by 1999 c. 16, s. 139, Sch. 20 Pt. III(11), Note

Commencement of paragraphs 3 and 4

- [^{F35} Paragraphs 3 and 4 above have effect in relation to any application for the issue or renewal of a certificate under section 561 of the ^{M2}Taxes Act 1988 in relation to which paragraphs 3(1) and 4 to 7 of Schedule 27 to the Finance Act 1995 (which amend sections 564 and 565 of the Taxes Act 1988) have effect in accordance with paragraph 8(1) of that Schedule.]

Textual Amendments

- F3** Sch. 8 para. 5 repealed (27.7.1999 with effect as mentioned in s. 53(3) of the amending Act) by 1999 c. 16, s. 139, Sch. 20 Pt. III(11), Note

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Marginal Citations

M2 1995 c. 4.

Powers to make regulations

6 In section 566 (powers to make regulations under Chapter IV), the following subsections shall be inserted after subsection (3)—

“(4) Any power under this Chapter to make regulations authorising or requiring a document (whether or not of a particular description), or any records or information, to be issued, given or requested or to be sent, produced, returned or surrendered to the Board shall include power—

- (a) to authorise the Board to nominate a person who is not an officer of the Board to be the person who on behalf of the Board—
 - (i) issues, gives or requests the document, records or information; or
 - (ii) is the recipient of the document, records or information;

and

- (b) to require the document, records or information, in cases prescribed by or determined under the regulations, to be sent, produced, returned or surrendered to the address (determined in accordance with the regulations) of the person nominated by the Board to receive it on their behalf.

(5) Any power under this Chapter to make regulations imposing requirements with respect to any description of document, with respect to documents generally or with respect to any records or information shall include power to make provision, subject to such conditions as may be prescribed by or determined in accordance with the regulations—

- (a) for the documents, records or information to be allowed to take an electronic form so prescribed or determined;
- (b) for the issue, completion, furnishing, production, keeping, cancellation, return, surrender or giving of the documents, records or information to be something that has to be or may be done by the electronic means so prescribed or determined; and
- (c) for the manner of proving in any proceedings the contents or transmission of anything that, by virtue of any regulations under this Chapter, takes an electronic form or is transmitted to any person by electronic means.”

Transitional provision for commencement of 1995 Act amendments

7 An order under subsection (3) of section 139 of the ^{M3}Finance Act 1995 (commencement of changes to sub-contractors scheme) appointing a day for the purposes of a provision of that section or Schedule 27 to that Act may also provide that certificates under section 561 of the Taxes Act 1988 which have been issued or renewed before the making of the order for periods ending on or after the appointed day are to cease to have effect at the end of the day immediately preceding the appointed day.

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