

2013 No. 620

INCOME TAX

CORPORATION TAX

**The Income Tax (Construction Industry Scheme) (Amendment)
Regulations 2013**

<i>Made</i> - - - -	<i>14th March 2013</i>
<i>Laid before the House of Commons</i>	<i>15th March 2013</i>
<i>Coming into force</i> - -	<i>6th April 2013</i>

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sections 62(3), (6) and (7) and 75 of, and paragraphs 4(3), 8(2) and 12(2) of Schedule 11 to, the Finance Act 2004^(a) and now exercisable by them^(b):

Citation, commencement and application

1.—(1) These Regulations may be cited as the Income Tax (Construction Industry Scheme) (Amendment) Regulations 2013 and come into force on 6th April 2013.

(2) The amendments made by these Regulations apply in relation to the tax year 2013-14 and subsequent tax years.

Amendment of the Income Tax (Construction Industry Scheme) Regulations 2005

2. The Income Tax (Construction Industry Scheme) Regulations 2005^(c) are amended as follows.

Gross payment: exceptions from compliance obligations

3. In Table 3 in regulation 32(2) (exceptions from compliance obligations), in the entry in column 1 relating to the obligation to submit a return under regulations 67B, 67D, 73, 74 and 85 of the PAYE Regulations^(d)—

- (a) omit “67B or 67D (real time returns) and 73, 74 and”, and
- (b) for “annual returns” substitute “(annual return of other earnings)”.

(a) 2004 c. 12.

(b) The functions of the Commissioners of Inland Revenue under the provisions of the Finance Act 2004 cited were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that, in so far as is appropriate in consequence of section 5, a reference, howsoever expressed, to the Commissioners of Inland Revenue is to be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(c) S.I. 2005/2045, amended by S.I. 2012/820.; there are other amending instruments but none is relevant.

(d) “PAYE Regulations” is defined in regulation 2 of the Income Tax (Construction Industry Scheme) Regulations 2005 as the Income Tax (Pay As You Earn) Regulations 2003.

Application by the Commissioners for Her Majesty's Revenue and Customs of sums deducted under section 61 of the Finance Act 2004

4. For regulation 56(5)(b) (application by the Commissioners for Her Majesty's Revenue and Customs of sums deducted under section 61 of the Finance Act 2004) substitute—

“(b) the qualifying sub-contractor has paid to the Commissioners for Her Majesty's Revenue and Customs—

- (i) any amounts the qualifying sub-contractor deducted from contract payments in their capacity as a contractor during that tax year, and
- (ii) any amounts due under the PAYE Regulations in respect of that tax year.”.

*Jim Harra
Jennie Granger*

14th March 2013

Two of the Commissioners for Her Majesty's Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Income Tax (Construction Industry Scheme) Regulations 2005 (S.I. 2005/2045) (“the principal Regulations”) make provision in relation to the construction industry scheme established by Chapter 3 of Part 3 of the Finance Act 2004 (c. 12). These Regulations amend the principal Regulations.

Regulation 3 amends regulation 32(2) of the principal Regulations which prescribes, for the purposes of the compliance test in Schedule 11 to the Finance Act 2004, the obligations and requests which must be satisfied before a sub-contractor may receive gross payments from a contractor under the construction industry scheme. Regulation 3 omits the references to regulations 67B, 67D, 73 and 74 of the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682) (“the PAYE Regulations”).

Regulation 4 amends regulation 56(5) of the principal Regulations which sets out the circumstances in which HM Revenue and Customs (“HMRC”) shall repay to a sub-contractor any sum deducted from a payment by a contractor under the construction industry scheme. As a consequence of the amendment made by regulation 4, the sub-contractor is now required to have paid over to HMRC any amounts it had deducted in its capacity as a contractor under the principal Regulations and any amounts it had deducted in its capacity as an employer under the PAYE Regulations.

A Tax Information and Impact Note covering this instrument was published on 15th March 2012 alongside the Income Tax (Pay As You Earn) Regulations 2012 (S.I. 2012/822). This has been updated as a result of changes to the impacts as a result of the year long RTI pilot and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

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