
STATUTORY INSTRUMENTS

2021 No. 321

The Income Tax (Construction Industry Scheme) (Amendment) Regulations 2021

PART 1

Introduction

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Income Tax (Construction Industry Scheme) (Amendment) Regulations 2021 and come into force on 6th April 2021.

(2) Regulations 5 to 8 have effect in relation to any direct costs to a sub-contractor⁽¹⁾ of materials⁽²⁾ where—

- (a) the materials are used or are to be used to carry out a construction operation⁽³⁾, and
- (b) the costs are incurred on or after 6th April 2021.

(3) Part 3 of these Regulations has effect in relation to any set-off claim⁽⁴⁾ which—

- (a) is contained in an employer return submitted on or after 6th April 2021, and
- (b) is made in respect of the tax year 2021-22 or any subsequent tax year.

Interpretation

2. In these Regulations—

“the 2005 Regulations” means the Income Tax (Construction Industry Scheme) Regulations 2005⁽⁵⁾;

“agency” has the meaning given in section 44 of the Income Tax (Earnings and Pensions) Act 2003⁽⁶⁾;

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- (1) For the purposes of Chapter 3 of Part 3 of the 2004 Act, “sub-contractor” is defined at section 58 of the 2004 Act.
 - (2) With the amendments made by clause 30 of, and paragraph 4 of Schedule 6 to, the Finance (No. 2) Bill, and given effect by Budget resolution no. 27 recorded in the House of Commons Votes and Proceedings for the 9th March 2021, section 61(1) of the 2004 Act provides that, on making a contract payment, the contractor (see section 57(3) of the 2004 Act for definition) must deduct from it a sum equal to the relevant percentage of so much of the payment as is not shown to represent the direct cost to the sub-contractor 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.
 - (3) “Construction operation” is defined at section 74 of the 2004 Act.
 - (4) A new subsection (3C) will be inserted into section 62 of the 2004 Act by Clause 30 of, and paragraph 6 of Schedule 6 to, the Finance (No. 2) Bill and is given effect by Budget resolution no. 27 recorded in the House of Commons Votes and Proceedings for 9th March 2021. The new section 62(3C) will define “set-off claim” as “a claim for treating a sum deducted under section 61 [of the 2004 Act] as paid on account of any relevant liabilities”.
 - (5) [S.I. 2005/2045](#) (“the 2005 Regulations”). The definition of “approved method of electronic communications” in regulation 2 of the 2005 Regulations was amended by [S.I. 2016/348](#). Regulation 4 of the 2005 Regulations was amended by Schedule 55 to the Finance Act 2009 (c. 10), Schedule 10 to the Finance (No. 3) Act 2010 (c. 33), [S.I. 2011/2391](#), [S.I. 2015/429](#) and [S.I. 2016/348](#). Regulation 19 of the 2005 Regulations was amended by [S.I. 2007/672](#). Regulation 56 of the 2005 Regulations was amended by [S.I. 2010/2495](#), [S.I. 2012/820](#), [S.I. 2013/620](#), [S.I. 2014/992](#), [S.I. 2015/125](#), [S.I. 2015/429](#) and [S.I. 2020/240](#).
 - (6) [2003 c. 1](#) (“ITEPA”). Section 44 was substituted by section 16(1) and (2) of the Finance Act 2014 (c. 26).

“employer return” means a return made to Her Majesty’s Revenue and Customs(7) by a PAYE employer for the purposes of the PAYE Regulations(8); and

“PAYE employer” includes—

- (a) a Real Time Information employer within regulation 2A (Real Time Information employers) of the PAYE Regulations(9),
- (b) any agency which is treated as an employer for the purposes of the PAYE Regulations by regulation 10 (application to agencies and agency workers) of those Regulations(10),
- (c) any employer, agency or other payer which is treated as an employer for the purposes of the PAYE Regulations by regulation 12 (application to other payers and payees) of those Regulations(11).

(7) Schedule 1 to the Interpretation Act 1978 (c. 30) provides that “Her Majesty’s Revenue and Customs” has the meaning given by section 4 of the 2005 Act. Section 4 of the 2005 Act provides that the Commissioners for Her Majesty’s Revenue and Customs and the officers of Revenue and Customs may together be referred to as Her Majesty’s Revenue and Customs.

(8) Schedule 1 to the Interpretation Act 1978 provides that “PAYE Regulations” means regulations under section 684 of ITEPA. The principal regulations made and subsequently amended under that provision are S.I. 2003/2682 (“the PAYE Regulations”).

(9) Regulation 2A was inserted by S.I. 2012/822 and amended by S.I. 2013/521.

(10) Regulation 10 was amended by S.I. 2013/521.

(11) Regulation 12 was amended by S.I. 2013/521.