

Construction Industry's A-Day Is Imminent

The long awaited "new" CIS will come into force on 6 April 2007. It operates around the same basic concept as the old scheme – a *contractor* has to make a *deduction* in certain situations when making a *payment to a subcontractor* under a contract relating to *construction operations*.

What has changed?

The system of tax certificates is to be abolished.

All subcontractors seeking payment for construction work will need to be registered with HMRC:

- those who previously qualified for a tax exemption certificate will now be "**registered for gross payment**"
- all others will be "**registered for payment under deduction**"
- the standard deduction will be 20%

How will this work?

- On engagement by the contractor, the subcontractor will provide basic identity details which the contractor will check with HMRC. HMRC will confirm whether the contractor is to make payments gross or net
- The subcontractor's status must be checked before the first payment is made and
 - for any subsequent payments in the same tax year or the two following years the contractor is entitled to assume that the subcontractor retains the same status he had at the time of the original check
 - the onus is on HMRC to notify the contractor of any changes in the status of a subcontractor in that period

Monthly returns

Contractors will require to submit a monthly return providing details of all payments made under the scheme. Not that controversial?

One of the declarations required on the return probably represents the most onerous aspect of the new scheme - a declaration to the effect that none of the payments included on the return is one in respect of a contract of employment. This puts the onus on the contractor to examine each subcontractor engagement and to satisfy himself that the relationship is not one of employment before carrying out the check on the subcontractor's status. Not an easy task given that there are no hard and fast rules for determining employment status.

While contractors will be able to use a tool known as the "Employment Status Indicator" to assist in identifying the status of workers it is quite likely that in complex cases the ESI will prove unreliable or at best unhelpful, referring the contractor to an Inspector which will result in delays in starting engagements.

The third man

The new rules allow for a new category of subcontractor, one who is genuinely not employed and who has not registered for either gross or net payment under the new CIS. Such a subcontractor will be subject to a new higher rate of tax deduction of 30%.

The new higher rate of deduction of 30% will also apply where HMRC are unable to identify the subcontractor when asked to verify his payment status by the contractor.

Business Impact

According to HMRC “the new scheme will remove some of the administrative burden of the current scheme.....”

Given that the obligation imposed on contractors to determine a subcontractor’s employment status may prove to be onerous and time consuming, and that to work effectively the verification process will require fast and reliable communication between HMRC and contractors, it remains to be seen whether HMRC’s stated aim will be achieved.

This bulletin is correct to the best of our knowledge and belief at the time of going to press. It is however written as a general guide, so it is recommended that specific professional advice is sought before any action is taken. We are required by law to protect personal data.

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