

2015 No. 429

INCOME TAX

CORPORATION TAX

**The Income Tax (Construction Industry Scheme) (Amendment)
Regulations 2015**

<i>Made</i> - - - -	<i>2nd March 2015</i>
<i>Laid before the House of Commons</i>	<i>3rd March 2015</i>
<i>Coming into force</i> - -	<i>6th April 2015</i>

The Commissioners for Her Majesty's Revenue and Customs^(a) in exercise of the powers conferred upon them by sections 62 and 70 of the Finance Act 2004^(b), make the following Regulations.

Citation, commencement and effect

1. These Regulations may be cited as the Income Tax (Construction Industry Scheme) (Amendment) Regulations 2015 and come into force on 6th April 2015.

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

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

(2) In regulation 4 (monthly return)^(d) omit paragraphs (10) and (11).

(3) At the end of regulation 56(5) (application of sums deducted under section 61)^(e) insert—

“but this paragraph does not apply to a qualifying sub-contractor within paragraph (5A).

(5A) A qualifying sub-contractor is within this paragraph if—

(a) that sub-contractor is subject to a winding-up under Part 4 of the Insolvency Act 1986^(f), and

(b) that sub-contractor has—

^(a) The functions of the Board of Inland Revenue, including the power to make Regulations under sections 62 and 70 of the Finance Act 2004 (c. 12), were transferred to the Commissioners for Her Majesty's Revenue and Customs under 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. Therefore, the Commissioners for Her Majesty's Revenue and Customs have the power to make these Regulations.

^(b) 2004 c. 12.

^(c) .S.I. 2005/2045 (the principal Regulations) relevant amending instruments are S.I. 2011/2391 and 2013/620.

^(d) Regulation 4 has been amended by article 3 of S.I. 2011/2391.

^(e) Regulation 56(5) has been amended by regulation 4 of S.I. 2013/620.

^(f) 1986 c. 45.

- (i) ceased trading,
- (ii) permanently ceased making payments to which section 61 of the Act^(a) applies in its capacity as a contractor, or
- (iii) ceased trading and permanently ceased to make any payments within sub-paragraph (b)(ii).

(5B) Where a qualifying sub-contractor is within paragraph (5A), the Commissioners for Her Majesty's Revenue and Customs may repay any sum deducted under section 61 of the Act to that sub-contractor during the tax year in which the deduction was made.”

*Jim Harra
Edward Troup*

2nd March 2015

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

Regulation 4 of the principal Regulations requires contractors to make returns to Her Majesty's Revenue and Customs (“HMRC”) including, in regulation 4(10), where the contractor has not made any payments to sub-contractors in a tax month (a nil return). Regulation 2(2) amends regulation 4 to remove the obligation to make a nil return.

Regulation 56(5) of the principal Regulations provides that where a sub-contractor is a company, no repayment of any amount deducted and paid over to HMRC by a contractor under section 61 of the Act can be made to the sub-contractor until after the end of the tax year in which the deduction was made. Regulation 2(3) of these Regulations amends regulation 56(5) so that in certain cases (for instance where the sub-contractor is subject to a winding up under Part 4 of the Insolvency Act 1986 (c. 45)) where the amount deducted by the contractor under section 61 of the Act is excessive, a repayment can be made during the tax year.

A Tax Information and Impact Note covering this instrument was published on 10th December 2014 alongside a draft of this instrument and is available at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>. It remains an accurate summary of the impacts that apply to this instrument.

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(a) “The Act” is defined in regulation 2 of the principal Regulations as meaning the Finance Act 2004.

£4.25

UK2015030213 03/2015 19585

<http://www.legislation.gov.uk/id/uksi/2015/429>

ISBN 978-0-11-113119-0



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