

2001 No. 1531

INCOME TAX

The Income Tax (Sub-contractors in the Construction Industry) (Amendment) Regulations 2001

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| <i>Made</i> | - - - - | <i>23rd April 2001</i> |
| <i>Laid before the House of Commons</i> | | <i>24th April 2001</i> |
| <i>Coming into force</i> | - - | <i>1st May 2001</i> |

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 566 of the Income and Corporation Taxes Act 1988(a), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Income Tax (Sub-contractors in the Construction Industry) (Amendment) Regulations 2001 and shall come into force on 1st May 2001.

Interpretation

2. In these Regulations “the principal Regulations” means the Income Tax (Sub-contractors in the Construction Industry) Regulations 1993(b) and “regulation” and “Schedule” mean respectively a regulation of, or Schedule to, the principal Regulations.

Amendments to the principal Regulations

3.—(1) Regulation 24 shall be amended as follows.

(2) In paragraph (1) after “CIS5” there shall be inserted “, CIS5 (Partner)”.

(3) In paragraph (4) for the word “Where” there shall be substituted the words “Subject to paragraph (4A), where”.

(4) After paragraph (4) there shall be inserted the following paragraphs—

“(4A) Subject to paragraph (4B), where the inspector considers that in all the circumstances the form of certificate mentioned in paragraph (4) would be inappropriate, he may issue a certificate to the individual in the form numbered CIS5 (Partner) in Schedule 1, and the certificate shall show—

- (a) a facsimile of the individual’s signature on the application for the certificate,
- (b) the word “Original” (but no copies shall be issued),
- (c) the date from which the certificate is valid,

(a) 1988 c. 1; section 566 was amended by paragraph 9 of Schedule 27 to the Finance Act 1995 (c. 4), section 178(1) of and Part V(32) of Schedule 41 to the Finance Act 1996 (c. 8), paragraph 6 of Schedule 8 and Part III(8) of Schedule 27 to the Finance Act 1998 (c. 36) and Part VII of Schedule 20 to the Finance Act 1999 (c. 16).

(b) S.I. 1993/743; the relevant amending instrument is S.I. 1998/2622.

- (d) the date of its expiry,
- (e) the distinctive number assigned to it,
- (f) the words “Acting for”,
- (g) the name of the firm, and
- (h) subject to paragraph (8), and where the individual so wishes, one business name under which the firm’s business is carried on.

(4B) A certificate mentioned in paragraph (4A) shall only be issued to a single partner in a particular firm, in his capacity as such, at any one time.”

(5) In paragraph (6) after sub-paragraph (f) there shall be inserted the following sub-paragraph—

“(g) the registration number of the company, and”.

(6) In paragraph (8)—

- (a) after “(4)” there shall be inserted “, (4A)”;
- (b) before the words “the firm” there shall be inserted the words “partners in”.

4. In regulation 25 after paragraph (1) there shall be inserted the following paragraph—

“(1A) A sub-contractor’s tax certificate in the form specified in regulation 24(4A) shall be issued by an inspector to the partner who applied for the certificate, and a facsimile of whose signature appears on it.”

5. In regulation 33—

- (a) in paragraph (1) after “regulation 34(2)” there shall be inserted “or 34A(2)”;
- (b) in paragraph (2)(a) after “(4)” there shall be inserted “, (4A)”.

6. After regulation 34 the following regulation shall be inserted—

“Alternative procedure for verification of sub-contractor’s tax certificate held by a partner in a firm

34A.—(1) Where the circumstances specified in paragraph (2) are satisfied, a partner specified in paragraph (3) shall give the document specified in paragraph (4) (in this regulation referred to as the “certification document”) to the contractor.

(2) The circumstances specified in this paragraph (and which were referred to in regulation 33(1)) are that—

- (a) the contract payment is made to a firm, not being a nominee,
- (b) the payment is due under a contract made in writing between the contractor and the firm,
- (c) the partner has produced the certification document to the contractor,
- (d) subject to paragraph (5), the contractor has no reason to doubt that the information shown on the certification document is correct,
- (e) the date of payment is—
 - (i) not earlier than the date shown in the certification document as that from which the certificate is valid, and
 - (ii) not later than the date of expiry shown in the certification document, and
- (f) the payment is made into a bank account held in the name of the firm and specified in the certification document (“the nominated account”).

(3) A partner specified in this paragraph is—

- (a) a partner in the firm referred to in paragraph (2) (“the firm”), and
- (b) one who has notified the inspector of particulars identifying the nominated account.

(4) The certification document specified in this paragraph is a document on the firm's headed notepaper, signed by the partner—

- (a) certifying that the partner, in his capacity as a partner in the firm, is the user of a valid sub-contractor's certificate in the form specified in paragraph (4A) of regulation 24, and
- (b) specifying—
 - (i) the name of the partner,
 - (ii) the address which is the firm's main place of business,
 - (iii) the distinctive number of the sub-contractor's tax certificate,
 - (iv) the date from which the certificate is valid,
 - (v) the date of expiry of the certificate,
 - (vi) particulars identifying the nominated account, and
 - (vii) where the partner so wishes, the business name or names under which the firm's business is carried on.

(5) If the contractor has reason to doubt that the information shown on the certification document is correct, he may, within 14 days of the date of receipt of the certification document from the partner, apply to the inspector for confirmation that—

- (a) a valid sub-contractor's tax certificate has been issued to the partner, in his capacity as a partner in the firm, to which the payment is to be made, and
- (b) the information shown on the certification document agrees with the records held by the inspector,

and, on receipt of such confirmation, the contractor shall be presumed to have no reason to doubt that the information shown on the certification document is correct”.

7.—(1) Regulation 37A(a) shall be amended as follows.

(2) In paragraph (1)—

- (a) in sub-paragraph (a) after “regulation 24” there shall be inserted the words “or to an individual as a partner in a firm in the form specified in paragraph (4A) of that regulation”;
- (b) in sub-paragraph (b) after the word “company” there shall be inserted the words “, or to that firm, as the case may be”.

(3) In paragraph (4) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) in the case of a contract payment to a company, the distinctive number of its sub-contractor's tax certificate or, in the case of a contract payment to a firm, the distinctive number of the sub-contractor's tax certificate of the partner in that firm who produced that certificate or a certification document in accordance with regulation 33 or 34A,”.

8.—(1) Regulation 40A(b) shall be amended as follows:

(2) In paragraph (6)(a) for the word “year,” there shall be substituted—

“year—

- (i) to firms, a partner in which is excepted from section 559 in his capacity as a partner in the firm and who, in that capacity, holds a sub-contractor's tax certificate in the form numbered CIS5 (Partner) in Schedule 1 to these Regulations, and
- (ii) ”.

(a) Regulation 37A was inserted by regulation 29 of S.I. 1998/2622.
(b) Regulation 40A was inserted by regulation 33 of S.I. 1998/2622.

(3) In paragraph (8) after sub-paragraph (a) there shall be inserted the following sub-paragraph—

“(aa) a list of all firms, a partner in which—

- (i) is excepted from section 559 in his capacity as a partner in the firm, and
- (ii) holds in that capacity a sub-contractor’s tax certificate in the form numbered CIS5 (Partner) in that Schedule,

to which the contractor made any contract payment during the year;”.

9. In Schedule 1(a) after the form designated “Form CIS5 Reverse” there shall be inserted—

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| <p>Form CIS5(Partner) Face</p> <div style="border: 1px solid black; padding: 5px;"><p style="text-align: center;">Construction Tax Certificate</p><p>Certificate Number: [space for original] [space for number]</p><p>[space for barcode] Start date: [space for date] Expires end: [space for date] Acting for: [space for name] Trading as: [space for name]</p><p>CIS5 Issued to: [space for signature image] (Partner)</p></div> | <p>Form CIS5(Partner) Reverse</p> <div style="border: 1px solid black; padding: 5px;"><p>This Tax Certificate may be used only by the person to whom it is issued. It must be surrendered on demand by the Inland Revenue. If found please hand in at any Police Station or any Inland Revenue office.</p><p>Any misuse of this Tax Certificate, including allowing any other person to use it, is a serious offence which may lead to penalties or prosecution.</p><p>(BMSD11/00)</p></div> |
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*Tim Flesher
Dave Hartnett*

23rd April 2001

Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Income Tax (Sub-contractors in the Construction Industry) Regulations 1993 (S.I. 1993/743). The effect of these Regulations is to allow a sub-contractor’s tax certificate in the form CIS5 (Partner)—equivalent to the CIS5 for companies—to be issued to certain partners in firms of sub-contractors.

The Regulatory Impact Assessment for these Regulations can be obtained from Inland Revenue (Personal Tax), Room 84, New Wing, Somerset House, Strand, London WC2R 1LB, or from website: www.inlandrevenue.gov.uk.

(a) Schedule 1 was substituted by regulation 38 of S.I. 1998/2622.

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