
STATUTORY INSTRUMENTS

2005 No. 2045

The Income Tax (Construction Industry Scheme) Regulations 2005

PART 4

PAYMENTS EXCEPTED FROM SECTION 60

Small payments

- 18.**—(1) A payment under a construction contract is not a contract payment if—
- (a) the conditions prescribed in paragraph (2) in relation to the person making the payment are satisfied, and
 - (b) the condition prescribed in paragraph (3) in relation to the payment is satisfied.
- (2) The conditions prescribed in relation to the person making the payment are that—
- (a) the person is one to whom any of paragraphs (b) to (l) of section 59(1) of the Act (contractors) applies, and
 - (b) the person has been approved by the Commissioners for Her Majesty's Revenue and Customs for the purposes of this regulation.
- (3) The condition prescribed in relation to the payment is that the payment is not one made under a construction contract in respect of which the total payments so made (excluding the direct cost of materials) exceed or are likely to exceed £1000.

Work carried out on land owned by person to whom payment is made

- 19.**—(1) A payment under a construction contract is not a contract payment if—
- (a) the conditions prescribed in paragraph (2) in relation to the person making the payment are satisfied, and
 - (b) the conditions prescribed in paragraph (3) in relation to the payment are satisfied.
- (2) The conditions prescribed in relation to the person making the payment are that—
- (a) the person is one to whom section 59(1)(a) of the Act, and
 - (b) the person has been approved by the Commissioners for Her Majesty's Revenue and Customs for the purposes of this regulation.
- (3) The conditions prescribed in relation to the payment are that the payment—
- (a) is made to a body or person in respect of construction operations carried out by that body or person in relation to—
 - (i) property owned by that body or person, or
 - (ii) agricultural property of which that body or person is a tenant, and
 - (b) is not one made under a construction contract in respect of which the total payments so made (excluding the direct cost of materials) exceed or are likely to exceed £1000.

- (4) For the purposes of paragraph (3)(a)(ii) “agricultural property” means—
- (a) agricultural land or pasture,
 - (b) woodland or any building used in connection with the intensive rearing of livestock or fish if the woodland or building is occupied with agricultural land or pasture and the occupation is ancillary to that of the agricultural land or pasture,
 - (c) cottages, farm buildings and farm houses, together with the land occupied with them, as are of a character appropriate to the property, and
 - (d) land and buildings used for breeding and rearing horses on a stud farm and grazing of horses in connection with those activities.

Reverse premiums

20.—(1) Subject to paragraph (2), a payment under a construction contract is not a contract payment if the payment is a reverse premium within the meaning of Schedule 6 to the Finance Act 1999⁽¹⁾ (tax treatment of receipts by way of reverse premium) (see paragraph 1 of that Schedule).

(2) Paragraph 5 of Schedule 6 to the Finance Act 1999 (exclusion of receipts taken into account for capital allowances) does not apply for the purposes of paragraph (1).

Payments as agent of a local education authority

21. A payment under a construction contract is not a contract payment if the payment is made by the governing body or head teacher of a maintained school as the agent of a local education authority under section 49(5)(b) of the School Standards and Framework Act 1998⁽²⁾ (delegated budgets).

Payments in respect of property used for business

22.—(1) A payment under a construction contract is not a contract payment if the payment is made by a person to whom section 59(1)(l) of the Act applies in respect of construction operations relating to property used for the purposes of the business of—

- (a) that person, or
 - (b) another company in the same group or of another company of which that company owns 50% or more of the shares.
- (2) For the purpose of paragraph (1)—
- (a) property is not used for the purposes of the business of a person if it is for sale or to let or is held as an investment by that person;
 - (b) in determining whether property is used for the purposes of the business of a person incidental use of that property by any other person is disregarded;
 - (c) section 413(3)(a) of ICTA applies to determine whether two companies are in the same group.

Arrangements involving public bodies

- 23.**—(1) A payment under a construction contract is not a contract payment if—
- (a) the person making the payment (“the public body”) is within any of paragraphs (b) to (k) of section 59(1) of the Act, and
 - (b) the payment is made under a private finance transaction.

(1) 1999 c. 16.

(2) 1998 c. 31.

- (2) For the purposes of this regulation, a transaction is a private finance transaction if—
- (a) the resources are provided partly by one or more public bodies and partly by one or more private persons;
 - (b) it is designed wholly or mainly for the purpose of assisting a public body to discharge a function or is ancillary to the function of a public body; and
 - (c) the public body makes payments by instalments at annual or more frequent intervals of fees determined in accordance with factors which include—
 - (i) the standard attained in the performance of services by the private person or persons in relation to the discharge of the function referred to in paragraph (b), or
 - (ii) the extent, rate or intensity of use of the resources or the asset which is constructed, enhanced, replaced or installed under the transaction.
- (3) For the purposes of paragraph (2), “resources” includes—
- (a) funds (including payment for the provision of services or facilities),
 - (b) assets,
 - (c) professional skill,
 - (d) the grant of a concession or franchise, and
 - (e) any other commercial resource.

Charities

24. A payment under a construction contract is not a contract payment if the payment is made by any body of persons or trust established for charitable purposes only.