
STATUTORY INSTRUMENTS

2015 No. 789

The Income Tax (Construction Industry Scheme) (Amendment of Schedule 11 to the Finance Act 2004) Order 2015

Amendment of Schedule 11 to the Finance Act 2004

3. Part 3 of Schedule 11 to the Finance Act 2004 (conditions to be satisfied by companies) is amended by—

- (a) inserting after paragraph 12(8) (the compliance test)—
 - “(9) This paragraph is subject to paragraph 12A (exception from compliance test: companies).”, and
- (b) inserting after paragraph 12—

“Exception from the compliance test: companies

12A.—(1) The conditions in paragraph 12 (compliance test: companies) do not need to be satisfied by the company if, at the time of the application—

- (a) one or more of its members is registered for gross payment (whether as a partner in a firm or otherwise), and
- (b) that member possesses or is entitled to acquire or those members together possess or are entitled to acquire—
 - (i) at least 50% of the share capital or issued share capital of the company,
 - (ii) at least 50% of the voting power in the company,
 - (iii) so much of the issued share capital of the company as would, on the assumption that the whole of the income of the company were distributed among its members, entitle the member or members mentioned in paragraph (a) to receive at least 50% of the amount so distributed, or
 - (iv) such rights as would entitle the member or members mentioned in paragraph (a), in the event of the winding up of the company or in any other circumstances, to receive at least 50% of the assets of the company which would then be available for distribution among its members.

(2) In sub-paragraph (1)(a) the reference to registration for gross payment does not include registration for gross payment by virtue of this paragraph or paragraph 8A (exception from compliance test: firms).

(3) For the purposes of this paragraph a person is treated as entitled to acquire anything which the person—

- (a) is entitled to acquire at a future date, or
- (b) will at a future date be entitled to acquire.

(4) Any rights that a member or any other person has as a loan creditor are to be disregarded for the purposes of the assumption in sub-paragraph (1)(b)(iii); and for this

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purpose “loan creditor” has the same meaning as in Part 10 of the Corporation Tax Act 2010 (close companies)(1).”.

(1) 2010 c. 4. Although Part 10 has been amended none of the amendments are relevant to this instrument.