

CONSTRUCTION INDUSTRY SCHEME



Background

The Construction Industry Scheme (CIS) was initially introduced in the 1970s to counteract the perceived under-reporting of income by subcontractors in the UK construction industry.

The scheme operates, in outline, by imposing a withholding tax obligation on contractors who make payments to subcontractors, thereby protecting against the risk that subcontractors subsequently fail to report and pay tax on their income.

Construction operations

The CIS regime must be considered by businesses (including overseas entities) that carry out “construction operations” in the UK.

The expression “construction operations” is widely defined and may include any work done to buildings or structures in the UK, whether having temporary or permanent effect. Some examples of construction operations are:

- Building work;
- Demolition;
- Site preparation;
- Making alterations;
- Carrying out repairs.

Typically, the CIS regime will apply to construction businesses. There are circumstances where other types of businesses will be involved in construction operations, but they will not fall within CIS if either or both of the following apply:

- Their average spend on construction operations is less than £3million over a rolling 12 month period; and/or

Their construction work is related to property used in their own business.

Operation of CIS

Businesses within the scope of CIS will have obligations under the regime when they act as “contractors” and make payments to “subcontractors”. Those businesses will need to:

- Register with HMRC under the scheme;

- Consider their withholding tax obligations on payments made to subcontractors;
- Where relevant, withhold tax at the appropriate rate on payments (other than payments that relate to the cost of materials incurred directly by the subcontractor).

It is not compulsory for subcontractors to register under the scheme, but the contractor’s withholding tax obligations will depend on the subcontractor’s registration status, as follows:

- The subcontractor is not registered – 30% withholding tax
- The subcontractor has standard registration – 20% withholding tax.
- The subcontractor is registered with gross payment status – no withholding tax.

The standard registration status is the default for subcontractors that register under CIS, but if the subcontractor’s tax affairs are up to date, and certain other conditions are met, they may be able to apply for gross payment status.

Subcontractors can offset amounts deducted under CIS in a number of ways, including against monthly PAYE and NICs liabilities relating to their own employees, CIR payments due to HMRC (if they also act as a contractor), and annual income tax or corporation tax liabilities.

Reporting and payment obligations

A registered contractor must submit monthly returns to HMRC, providing details that include the following:

- The name of each subcontractor paid in the period; and
- The amount paid and the amount of tax deducted.

The monthly return must be submitted to HMRC 14 days from the end of the “tax month”. For example, the June to July tax month ends on 5 July and the CIS return for that month must therefore be submitted by 19 July.

Any amounts deducted by the contractor must be paid to HMRC by 22nd of the month after the end of the tax month (assuming that these are paid electronically). Where certain conditions are satisfied, it may be possible for payments to be made quarterly instead of monthly.

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A contractor should provide details to a subcontractor of the amount paid and any tax deducted on a monthly pay statement, usually referred to as a "PDS".

Contractors can incur penalties and interest where they:

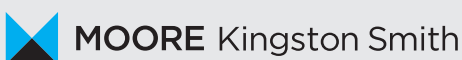
- Fail to register for CIS.
- Fail to submit CIS returns on time.
- Submit incorrect CIS returns.
- Fail to pay any withheld tax to HMRC on time.

The above is an overview of the registration and operation of the Construction Industry Scheme. If you require advice please contact Moore Kingston Smith.

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